

**LONG-RANGE PROPERTY MANAGEMENT PLAN  
(Pursuant to Health and Safety Code Section 34191.5)**

**Successor Agency of the Redevelopment Agency  
of the Town of Los Gatos**

**September 2013**

## **Introduction and Executive Summary**

### **Procedural Background**

This document constitutes the Long-Range Property Management Plan (the "LRPMP") of the Successor Agency (the "Successor Agency") of the former Redevelopment Agency of the Town of Los Gatos (the "Former RDA"), prepared in accordance with Health and Safety Code Section 34191.5.

The Former RDA was dissolved on February 1, 2012, pursuant to ABx1 26 (as amended by AB 1484, the "Redevelopment Dissolution Statutes"). The Redevelopment Dissolution Statutes govern the dissolution of the Former RDA, which includes the disposition of its former real property.

At the time of its dissolution, the Former RDA owned two properties, one of which has since transferred to the ownership of the Town of Los Gatos (the "Town"), in its capacity as housing successor of the Former RDA, as a housing asset authorized and approved for such transfer by the Successor Agency's Oversight Board (the "Oversight Board") and the California Department of Finance (the "DOF") in accordance with Health and Safety Code Section 34176.<sup>1</sup>

As a result, the only remaining property that transferred to the ownership of the Successor Agency in connection with the Former RDA's dissolution,<sup>2</sup> and that is thereby subject to this LRPMP, consists of the public parking building structure (the "Building") located between Elm Street and Grays Lane (commonly known as Parking Lot #4) in the Town's downtown area and within the Central Los Gatos Redevelopment Project Area.

As fully described in this LRPMP, the Former RDA leased from the Town the land (the "Site") upon which the Building is constructed in connection with a municipal bond financing issuance from which the Town raised the bond proceeds to build the Building. Since its construction by the Town, the Building has been operated and maintained at the expense of the Town, without any financial contribution for such operation and maintenance from either the Former RDA or the Successor Agency.

The Successor Agency is now responsible for disposition of the Building in accordance with the procedures and requirements of Redevelopment Dissolution Statutes, with particular reference to Health and Safety Code Section 34191.1, 34191.3, 34191.4(a), and 34191.5.

The Successor Agency obtained a "finding of completion" from DOF on May 15, 2013, pursuant to Health and Safety Code Section 34179.7, indicating that the Successor Agency has satisfactorily made a series of required payments of Former RDA funds in accordance with the

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<sup>1</sup> The Former RDA property at 224 West Main Street is a housing asset that has transferred by operation of Health and Safety Code Section 34176 and the approval of the Oversight Board and the DOF to the Town. Another housing asset of the Former RDA, the property at 20 Dittos Lane, was already recorded in the name of the Town at the time of the dissolution of the Former RDA.

<sup>2</sup> Health and Safety Code Section 34175(b) provides that the assets and properties of the Former RDA transferred to the Successor Agency upon dissolution of the Former RDA on February 1, 2013.

Redevelopment Dissolution Statues. Issuance of the finding of completion, now entitles the Successor Agency to submit this LRPMP for approval by the Oversight Board and DOF. In addition, on September 3, 2013, this LRPMP was presented to and approved by Successor Agency governing board (the Los Gatos Town Council, serving in its separate capacity as the governing board of the Successor Agency).

This LRPMP is scheduled for consideration by the Successor Agency's Oversight Board on September 12, 2013 and, if approved by the Oversight Board, will be transmitted to the DOF for its approval in accordance with Health and Safety Code Section 34191.5(b).

### **Proposed Building Disposition**

Health and Safety Code Section 34191.5 authorizes four categories for disposition of a successor agency's property, as summarized in Table 1:

***Table 1: Permitted Uses/Disposition of Successor Agency Real Property Under a Long-Range Property Management Plan (Health and Safety Code Section 34191.5)***

| <b>Plan Category</b>                | <b>Use/Disposition Purpose of Property</b>  | <b>Property Transferee</b>                  |
|-------------------------------------|---|---|
| Enforceable Obligation              | Use Consistent with Enforceable Obligation Terms  | Designated Enforceable Obligation Recipient |
| Governmental                        | Governmental Use in Accordance with Section 34181(a)  | Appropriate Public Jurisdiction             |
| Approved Redevelopment Plan Project | Direct Use, or Liquidation and Use of Proceeds, for Project Identified in Approved Redevelopment Plan | Host Community (City of County)             |
| Other Liquidation                   | Distribution of Sale Proceeds as Property Taxes to Affected Taxing Entities                           | Approved Purchase                           |

For the reasons detailed in this plan, the Building qualifies for disposition to the Town as a property that is the subject of an enforceable obligation that contractually requires the Successor Agency to convey the Building to the Town without payment or compensation by the Town.

Consequently, as further detailed in Part II below, this LRPMP directs the conveyance of the Building by the Successor Agency to the Town upon approval of the LRPMP, without compensation or payment, and without the requirement for further action or approval of the Oversight Board and the DOF (beyond the initial approval of this LRPMP itself).

### **Organization of LRPMP**

In accordance with Health and Safety Code Section 34191.5(c), Part I of this LRPMP contains an inventory of specified information related to the Building, and Part II addresses and sets forth the proposed plan for disposition of the Building. Accompanying this LRPMP is the information checklist required by the DOF (Appendix A). Because this LRPMP involves only one property for which the required information can be readily portrayed and accessed through the following

text, it has not been deemed necessary to also prepare the optional DOF tracking worksheet that can be particularly useful for more complex LRPMPs.

## **Part I: Building Background and Description; LRPMP Information Inventory**

This Part provides the required inventory information for the Building that was transferred from the Former RDA to the Successor Agency. Following an overview statement regarding the Building's background and description, this inventory is organized to address the specific LRPMP inventory subsections listed in Health and Safety Code Section 34191.5(c)(1), with each item corresponding to the specific letter of this section of the Health and Safety Code (e.g., item "(A)" provides the required information from HSC Section 34191.5(c)(1)(A) and so forth).

### **Overview**

The Building is a public parking garage containing 108 parking spaces available to employees, customers, and visitors to the Los Gatos downtown area. The Building was designed and constructed by the Town for this unique purpose and has no other potential use.

The Building is built on the Site, which is Assessor's Parcel No. 529-03-67, an approximately 65,990 square foot parcel of land located between Elm Street and Grays Lane that is owned in fee by the Town. It should be emphasized that the Site was never owned by the Former RDA, is not now owned by the Successor Agency, and is therefore not a subject of this LRPMP or available for disposition in accordance with the Redevelopment Dissolution Statutes. Rather, the Town intends to continue to own the Site on a long-term basis in order to continue to operate the Building on the Site as a public parking facility.

The Site was leased by the Town to the Former RDA pursuant to a 1992 site lease (the "Site Lease"). Pursuant to a simultaneous lease agreement (the "Lease Agreement"), a copy of which is attached to this LRPMP as Appendix B, the Former RDA subleased the Site and the Building as constructed by the Town back to the Town for operation as public parking facility. The Site Lease and Lease Agreement were entered into as security for issuance by the Town of its 1992 Certificates of Participation (Parking Lot #4 Project) (the "1992 COPS"), the proceeds of which were used by the Town in part to pay the costs of acquisition and construction of the Building.

The 1992 COPS constitute "indebtedness obligations" under Health and Safety Code Section 34171(e). Because the Site Lease and Lease Agreement were entered into in connection with the issuance of the 1992 COPS that constitute indebtedness obligations, the Site Lease and the Lease Agreement continue to constitute "enforceable obligations" under Health and Safety Code Section 34171(d)(2).<sup>3</sup> In turn, pursuant to Health and Safety Code Section 34177(c), the Successor Agency is directed and required to "perform obligations required pursuant to any enforceable obligation", which in connection with the Building requires the Successor Agency to

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<sup>3</sup> For this reason, unlike most typical agreements between a redevelopment agency and its sponsoring community, the Site Lease and the Lease Agreement were not rendered invalid pursuant to Health and Safety Code Section 34171 (d)(2) or Section 34178(a) at the time the Former RDA was dissolved

perform the obligations of the Former RDA under the Site Lease and the Lease Agreement that continue to constitute enforceable obligations under the Redevelopment Dissolution Statutes.

Section 4.5 of the Lease Agreement contains an express obligation of the Former RDA (and now the Successor Agency as its successor entity) to transfer ownership of the Building to the Town once the Town has made all required lease payments under the Lease Agreement. Section 4.5 of the Lease Agreement states in relevant part:

*"If the Town...pays all Lease Payments during the Term of this Lease Agreement as the same become due and payable, all right, title and interest of the [Former RDA] under the Site Lease in and to the [Building]... shall be transferred to and vested in the Town. The [Former RDA] agrees to take any and all steps and execute and record any and all documents reasonably required by the Town to consummate any such transfer."*

Neither Section 4.5 or any other provision of the Lease Agreement or the other 1992 COPS-related documents calls for or requires any payment or other form of compensation from the Town in connection with transfer of the Building to the Town once the Town has made all the lease payments required under the 1992 COPS documents.

The Town timely made all the lease payments in order to timely pay all debt service and other amounts due with respect to the 1992 COPS, including the final lease payment/debt service payment that was paid by the Town on or about August 1, 2012 as illustrated in Appendix C with both the November 30, 2012 US bank statement illustrating final distribution of \$254,136.29. Appendix C, page 2 shows the balance of the COP account as of December 31, 2012 to be zero. The \$254,136.29 was received by the Successor Agency and the balance plus interest will be transferred to the County prior to the Oversight Board meeting on September 12, 2013 for distribution to the taxing entities. As a result of this final lease payment, title in and to the Building technically transferred to the Town under the express terms of this enforceable obligation provision on or about August 1, 2012.

However, because the Redevelopment Dissolution Statutes (as amended by the June 27, 2012 enactment of AB 1484) suspended the Successor Agency's authority to dispose of most types of property until it had obtained an approved LRPMP,<sup>4</sup> out of an abundance of caution the Successor Agency refrained from providing the executed and recorded documents to memorialize this transfer of the Building to the Town, as required by the last sentence of Lease Agreement Section 4.5 (quoted above), until it had prepared and obtained approval of this LRPMP.

### **Required Inventory Information**

- (A) *Acquisition Information.* The Site Lease by which the Successor Agency obtained its temporary leasehold interest in the Site from the Town was dated as of August 1, 1992. Thereafter, the Building was constructed on the Site by the Town using the proceeds of the 1992 COPS issuance and thereupon became the leasehold property of the Former RDA.

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<sup>4</sup> See Health and Safety Code Section 34191.3.

The Former RDA made no payments under the Site Lease or the Lease Agreement in connection with this acquisition of the temporary leasehold interest in the Site and the Building as constructed on the Site by the Town.<sup>5</sup>

At the time of its construction, the Building was valued at \$4,067,708.02. The estimated current net book value of the Building is \$2,237,239.42.

- (B) *Purpose of Acquisition.* As noted, the Former RDA's acquisition of the leasehold interest in the Site and the constructed Building was undertaken as a financing mechanism to provide security for issuance and repayment of the 1992 COPS, the proceeds of which were in turn used to pay the costs of development of the Building. This mechanism allowed the issuance to the 1992 COPS buyers of "certificates of participation" in the lease payments owed by the Town under the Lease Agreement in connection with the Town's leaseback from the Former RDA of the Site and the constructed Building.
- (C) *Parcel Data.* The Building consists of a 108 space public parking garage built by the Town on the Site owned by the Town and leased to the Former RDA. In turn, the Site consists of Assessor's Parcel No. 529-03-67, an approximately 65,990 square foot parcel of land located between Elm Street and Grays Lane. The legal description of the Site can be found in Exhibit B of the Lease Agreement (which is attached to this LRPMP as Appendix B). The Los Gatos General Plan designation for the Site owned by the Town is "Central Business District", which includes the provision of public parking. The zoning designation of the Site owned by the Town is "C-2 (Central Business District)", which also allows the provision of public parking.
- (D) *Current Value.* As noted above, the estimated current net book value of the Building is \$2,237,239.42. This estimate is based on the amortized depreciation costs. There is no current appraisal information with respect to the Building.
- (E) *Revenues Generated By the Buildings.* The operation of the Building does not generate any parking fees or any lease, rent, or other revenue to the Town or any other entity. The Town has determined that, in order to meet the public need for parking facilities to accommodate reasonable traffic circulation in the downtown area and to promote patronage at local business establishments, it is not feasible or appropriate to charge any fees for the public parking in the Building. The Building also does not generate any lease, rental, or other revenue.

The Town estimates that it is required to spend approximately \$7,500 annually on routine operation and maintenance costs for the Building. These costs are paid from general Town financial sources and not from either Former RDA or Successor Agency funds. As such,

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<sup>5</sup> Under a Reimbursement Agreement between the Town and the Former RDA executed concurrently with issuance of the 1992 COPS and the execution of the Site Lease and the Lease Agreement, the Former RDA agreed to make specified payments to the Town to be used by the Town toward the Town's obligation to make debt service payments on the 1992 COPS. The payment obligations of the Former RDA under the Reimbursement Agreement have been determined by the Oversight Board and the DOF to constitute enforceable obligations payable on successive Recognized Obligation Payment Schedules prepared by the Successor Agency.

the Building operates as a public parking resource at an annual net loss to the Town in order to meet the Town's traffic circulation and downtown commercial revitalization objectives.

- (F) *Environmental Contamination and Remediation.* The Successor Agency is not aware of any environmental contamination or remediation needs in connection with the Building.
- (G) *Potential for Transit-Oriented Development and Advancement of Planning Objectives.* In its current use as an off-street public parking facility, the Building and the Site serve important Town planning objectives and promote compact, pedestrian friendly revitalization and use of the downtown core area, thereby taking advantage of existing public infrastructure and private development patterns, and avoiding spread-out, lower density development patterns that require new public infrastructure investment.

For instance, the most recent available parking analysis for the downtown area indicates the availability of approximately 888 public parking lot spaces (of which the Building provides 108 spaces, or over 12% of the total), and 877 on-street parking spaces, for a total of 1,775 available parking spaces. The report also indicated a need for approximately 800 more total spaces than are reported as being available. Thus, the Building is an essential component of the public parking program to meet the needs of the downtown area, and materially helps to reduce the deficit in such parking that exists in the downtown.

The parking provided in the Building contributes directly to the viability of small businesses and independent stores that could not feasibly provide their own separate parking facilities. Further, because the Building aggregates needed parking in an efficient off-site facility, it also contributes to a pedestrian friendly street environment that is an important Town objective.

In these ways, the Building supports important Town planning goals and policies as set forth in the Town of Los Gatos 2020 General Plan (January 7, 2011) (the "General Plan"). Among the General Plan goals and policies directly served by the Building and the use of the Site for off-street public parking are the following:

*"Goal LU-10: To preserve Downtown Los Gatos as the historic center of Town, with goods and services for local resident, while maintaining the existing Town identity, environment and commercial viability."*

*"Policy LU-10.1: Encourage the development and retention of small businesses and independent stores and shops Downtown that are consistent with the small-town character and scale."*

*"Policy LU-10.2a: Recognize and encourage different functions, land use patterns, and use mixes of the various commercial areas of the Downtown. These include: the pedestrian scale and orientation of the Central Business District..."*

*"Goal TRA-14: To ensure that there is adequate parking in Downtown to meet the needs of Los Gatos residents and visitors."*

*"Policy TRA-14.4: Maximize the utilization of existing parking lots and spaces to meet Downtown business and residential demands."*

- (H) *History of Development Proposals and Activity.* Because the Building and the Site have long been used as an off-site public parking facility and because the Town intends to maintain this use to meet the goals, objectives and policies outlined above, there is no history over the past two decades of development proposals and activity for any different use, rental or lease of the Building and the Site.

## **Part II: Building Disposition and Use**

### **Plan of Building Disposition and Use**

This LRPMP calls for the disposition and use of the Building as follows.

Upon the approval of the LRPMP by the Oversight Board and the DOF, the Building shall be conveyed by the Successor Agency to the Town without compensation or payment from the Town, and without further action or approval by the Oversight Board or the DOF (beyond the approval of the LRPMP itself). At such time, the Successor Agency Executive Director, or the Executive Director's designee, is authorized and directed to take such actions, including the execution and recordation of such conveyance documents on behalf of the Successor Agency, as are appropriate to consummate this conveyance of the Building to the Town.

As noted in Part I of this LRPMP, the 1992 COPS-related documents do not require any payment or other form of compensation from the Town for the transfer of the Building once the Town is eligible for such transfer following the making by the Town of all required lease payments. In addition, for three reasons, Health and Safety Code Section 34180(f)(1) does not apply to the circumstances of this transfer of the Building to the Town. Section 34180(f)(1) states in relevant part: "If a city...wishes to retain any properties...for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them..." First, the Town does not seek to "retain" the Building, but instead to receive a transfer of the title to the Building from the Successor Agency to which the Town is entitled under an existing enforceable obligation. Further, the Building is not intended for future redevelopment activities, but rather for the continuation of its nearly two decades use as a previously redeveloped parking facility. Finally, to impose a compensation requirement would be inconsistent with the requirement of Health and Safety Code Section 34177(e) that requires the Successor Agency to perform the remaining enforceable obligation set forth in Lease Agreement Section 4.5 to execute such documents as are necessary to transfer the Building to the Town without compensation.

### **Reasons For Plan of Disposition**



This disposition of the Building to the Town is authorized as a transfer as an enforceable obligation, as follows.

As detailed in Part I, under Health and Safety Code Section 34171(d)(2), Section 4.5 of the Lease Agreement constitutes a remaining valid enforceable obligation of the Successor Agency to the Town.

In turn, Lease Agreement Section 4.5 states that the right, title and interest in the Building shall be transferred to and vested in the Town as a result of the Town's completion of lease payments/debt service payments under the 1992 COPS, and obligates the Successor Agency to take any and all steps and execute and record all documents necessary to memorialize the transfer of the Building to the Town.

Finally, pursuant to the Legislature's mandate in Health and Safety Code Section 34177(c), the Successor Agency is directed to perform this remaining enforceable obligation to document the transfer of the Building to the Town.

APPENDIX A  
LRPMP FORM



## LONG-RANGE PROPERTY MANAGEMENT PLAN CHECKLIST

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**Instructions:** Please use this checklist as a guide to ensure you have completed all the required components of your Long-Range Property Management Plan. Upon completion of your Long-Range Property Management Plan, email a PDF version of this document and your plan to:

Redevelopment\_Administration@dof.ca.gov

The subject line should state "[Agency Name] Long-Range Property Management Plan". The Department of Finance (Finance) will contact the requesting agency for any additional information that may be necessary during our review of your Long-Range Property Management Plan. Questions related to the Long-Range Property Management Plan process should be directed to (916) 445-1546 or by email to [Redevelopment\\_Administration@dof.ca.gov](mailto:Redevelopment_Administration@dof.ca.gov).

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Pursuant to Health and Safety Code 34191.5, within six months after receiving a Finding of Completion from Finance, the Successor Agency is required to submit for approval to the Oversight Board and Finance a Long-Range Property Management Plan that addresses the disposition and use of the real properties of the former redevelopment agency.

### GENERAL INFORMATION:

Agency Name: **Successor Agency of the Redevelopment Agency of the Town of Los Gatos**

Date Finding of Completion Received: May 15, 2013

Date Oversight Board Approved LRPMP: September 12, 2013

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### Long-Range Property Management Plan Requirements

For each property the plan includes the date of acquisition, value of property at time of acquisition, and an estimate of the current value.

☒ Yes ☐ No

For each property the plan includes the purpose for which the property was acquired.

☒ Yes ☐ No

For each property the plan includes the parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

☒ Yes ☐ No

For each property the plan includes an estimate of the current value of the parcel including, if available, any appraisal information.

☒ Yes ☐ No

For each property the plan includes an estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

☒ Yes ☐ No

For each property the plan includes the history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

☒ Yes ☐ No

For each property the plan includes a description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

☒ Yes ☐ No

For each property the plan includes a brief history of previous development proposals and activity, including the rental or lease of the property.

☒ Yes ☐ No

For each property the plan identifies the use or disposition of the property, which could include 1) the retention of the property for governmental use, 2) the retention of the property for future development, 3) the sale of the property, or 4) the use of the property to fulfill an enforceable obligation.

☒ Yes ☐ No

The plan separately identifies and list properties dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation.

☒ Yes ☐ No

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## ADDITIONAL INFORMATION

- If applicable, please provide any additional pertinent information that we should be aware of during our review of your Long-Range Property Management Plan.

As fully set forth in the accompanying Long-Range Property Management Plan (the "LRPMP"):

1. The only property of the former Los Gatos Redevelopment Agency (the "Former RDA") that was transferred to the Successor Agency upon the dissolution of the Former RDA pursuant to Health and Safety Code Section 34175(b) and that is now subject of the accompanying LRPMP is the public parking building structure (the "Building") located between Elm Street and Grays Lane (commonly known as Parking Lot #4) in the Town of Los Gatos downtown area and within the Central Los Gatos Redevelopment Project Area.

2. The Building was constructed by the Town of Los Gatos (the "Town") and occupies a parcel of land (the "Site") that is owned in fee by the Town.

3. The Site has at all relevant times been owned in fee by the Town, was never owned by the Former RDA, is not now owned by the Successor Agency, and is therefore not a subject of the LRPMP or available for disposition in accordance with the Redevelopment Dissolution Statutes.

4. The Town intends to continue to own the Site on a long-term basis in order to continue to operate the Building on the Site as a public parking facility.

5. The Site was leased by the Town to the Former RDA pursuant to a 1992 site lease (the "Site Lease").

6. Pursuant to a simultaneous lease agreement (the "Lease Agreement"), the Former RDA subleased the Site and the Building as constructed by the Town back to the Town for operation as public parking facility.

7. The Site Lease and Lease Agreement were entered into as security for issuance by the Town of its 1992 Certificates of Participation (Parking Lot #4 Project) (the "1992 COPS"), the proceeds of which were used by the Town in part to pay the costs of acquisition and construction of the Building.

8. The 1992 COPS constitute "indebtedness obligations" under Health and Safety Code Section 34171(e).

9. Because the Site Lease and Lease Agreement were entered into in connection with the issuance of the 1992 COPS that constitute indebtedness obligations, the Site Lease and the Lease Agreement continue to constitute "enforceable obligations" under Health and Safety Code Section 34171(d)(2).

10. Section 4.5 of the Lease Agreement states in relevant part:

*"If the Town...pays all Lease Payments during the Term of this Lease Agreement as the same become due and payable, all right, title and interest of the [Former RDA] under the Site Lease in and to the [Building]... shall be transferred to and vested in the Town. The [Former RDA] agrees to take any and all steps and execute and record any and all documents reasonably required by the Town to consummate any such transfer."*

11. As of August 2012, the Town had made all required lease payments required under the Lease Agreement, and thereby became entitled to a transfer of the Building from the Successor Agency without further payment or compensation.

12. For the reasons summarized above and detailed in the LRPMP, the LRPMP provides that, upon the approval of the LRPMP by the Oversight Board and the Department of Finance (the "DOF"), the Building shall be conveyed by the Successor Agency to the Town without compensation or payment from the Town, and without further action or approval by the Oversight Board or the DOF (beyond the approval of the LRPMP itself).

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**Agency Contact Information**

Name: Jennifer Callaway

Name:

Title: Finance and Budget Manager

Title:

Phone: (408) 354-6885

Phone:

Email: JCallaway@losgatosca.gov

Email:

Date: September 12, 2013

Date:

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**Department of Finance Local Government Unit Use Only**DETERMINATION ON LRPMP: ☐ APPROVED ☐ DENIED

APPROVED/DENIED BY: \_\_\_\_\_ DATE: \_\_\_\_\_

APPROVAL OR DENIAL LETTER PROVIDED: ☐ YES DATE AGENCY NOTIFIED: \_\_\_\_\_

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Form DF-LRPMP (11/15/12)

APPENDIX B  
LEASE AGREEMENT

TO BE RECORDED AND WHEN RECORDED RETURN TO:

Jones Hall Hill & White  
Four Embarcadero Center, 19th Floor  
San Francisco, California 94111  
Attention: David J. Oster, Esq.

RECORDED IN Santh Clara  
COUNTY ON August 24, 1992  
AT INSTRUMENT NO. 11509411  
AT 8 AM

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**LEASE AGREEMENT**

**Dated as of August 1, 1992**

**by and between the**

**LOS GATOS REDEVELOPMENT AGENCY, as Lessor**

**and the**

**TOWN OF LOS GATOS,  
as Lessee**

**(Parking Lot #4 Project)**

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## LEASE AGREEMENT

THIS LEASE AGREEMENT, dated for convenience as of August 1, 1992, (the "Agreement") by and between the LOS GATOS REDEVELOPMENT AGENCY, a public body, corporate and politic, formed, operating and acting pursuant to the laws of the State of California, as lessor (the "Agency"), and the TOWN OF LOS GATOS, a general law city and political subdivision duly organized and existing under the Constitution and laws of the State of California, as lessee (the "Town");

### W I T N E S S E T H:

WHEREAS, the Town has determined that it is in the interests of the Town at this time to provide for the financing of the acquisition and construction of Parking Lot #4, together with related and appurtenant facilities (the "Project"); and

WHEREAS, the Project will be located on that certain land owned by the Town and described in Exhibit B hereto (the "Site"); and

WHEREAS, the Town will lease the Site to the Agency under the Site Lease, dated as of August 1, 1992, by and between the Town and the Agency (the "Site Lease");

WHEREAS, in order to provide moneys to pay the costs of constructing the Project, the Agency proposes to lease the Site and the Project to the Town pursuant to this Lease Agreement, dated as of August 1, 1992 (the "Lease Agreement"); and

WHEREAS, under the Lease Agreement, the Agency is required to cause to be deposited certain sums of money to be credited, held and applied in accordance with the Lease Agreement and with a Trust Agreement, dated as of August 1, 1992 (the "Trust Agreement") by and among the Agency, the Town and Bank of America National Trust and Savings Association (the "Trustee"); and

WHEREAS, upon delivery of the Lease Agreement, the Agency is required to deliver to the Town for deposit into the Construction Fund established under the Trust Agreement, in addition to other moneys to be deposited with the Trustee, moneys for the acquisition, construction and furnishing of the Project. For the purpose of obtaining such moneys, the Agency is willing to sell to certain persons (the "Owners") direct, undivided and fractional interests in the Lease Payments, such fractional interests to be evidenced by certificates of participation therein (the "Certificates"). In order to make such direct, undivided and fractional interests marketable on terms acceptable to the Agency, the Agency is willing to assign and transfer its rights under the Lease Agreement to the Trustee for the benefit of the Owners of the Certificates. Concurrently with the delivery of this Agreement, the Trustee is executing and delivering the Certificates on behalf of the Town in an aggregate face amount of Two Million Nine Hundred Sixty Thousand Dollars (\$ 2,960,000). The proceeds of such sale are anticipated to be sufficient to permit the Agency to make the deposits required under this Lease Agreement and the Trust Agreement and to permit the Agency to pay therewith the cost of acquisition, construction and furnishing of the Project; and

WHEREAS, the Agency will establish a trust pursuant to the Trust Agreement and direct the Trustee to execute and deliver the Certificates representing direct, undivided and fractional interests in the Lease Payments to and including the earlier of the maturity or redemption of the Certificates; and

**WHEREAS**, the Town is authorized under the Constitution and the laws of the State of California to enter into this Lease Agreement for the purposes and subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the above premises and of the mutual covenants hereinafter contained and for other good and valuable consideration, the parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS AND EXHIBITS

**Section 1.1. Definitions.** All terms specifically defined in the Trust Agreement shall have the same respective meanings when used herein. In addition, the following terms defined in this Section 1.1 shall have the respective meanings herein set forth when used herein.

**"Code"** means the Internal Revenue Code of 1986, as in effect on the Closing Date or (except as otherwise referenced herein together with applicable temporary and final regulations promulgated under the Code), as it may be amended to apply to obligations issued on the Closing Date.

**"Lease Agreement"** means this Lease Agreement, together with any duly authorized and executed amendments hereto.

**"Lease Payment Date"** means the first (1st) day of each month during the Term of the Lease Agreement, commencing September 1, 1992, unless such day is not a Business Day, in which case such Lease Payment Date shall be the Business Day next preceding such date. An Amount equal to one-sixth (1/6th) of the interest component of the amounts payable to Owners on the next succeeding Payment Date shall be due and payable on the first day of each of the months preceding such Payment Date (except that with respect to the February 1, 1993<sup>^</sup> Payment Date only, an amount equal to one-fifth (1/5th) of the interest components of the amounts payable to Owners on such Payment Date shall be due and payable on the first day of each month, commencing September 1, 1992), and an amount equal to one-twelfth (1/12th) of the principal component of the amounts payable to Owners on an August 1 Payment Date shall be due and payable on the first day of each of the months preceding each of such August 1 Payment Dates (except that with respect to the August 1, 1993 Payment Date only, an amount equal to one-eleventh (1/11th) of the principal component of the amounts payable to Owners on such Payment Date shall be due and payable on the first day of each month commencing September 1, 1992.

**"Net Proceeds,"** when used with respect to insurance or condemnation proceeds, means any insurance proceeds or condemnation award paid with respect to the Project, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

**"Original Purchaser"** means the first purchaser of the Certificates upon their delivery by the Trustee.

**"Permitted Encumbrances"** means, as of any particular time: (i) liens for general ad valorem taxes and assessments, if any, not then delinquent; (ii) the Assignment Agreement; (iii) the Site Lease and this Lease Agreement; (iv) the Trust Agreement; (v) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (vi) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record as of the Closing Date and which the Town certifies in writing will not materially impair the use of the Site for the Project; and (vii) easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions established following the date of recordation of this Lease Agreement and to which the Agency and the Town consent in writing.

**"Private Business Use"** means use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a governmental unit and use as a member of the general public.

**"Proceeds"**, when used with reference to the Certificates, means the face amount of the Certificates, plus accrued interest and premium, if any, less original issue discount.

**"Project"** means the Parking Lot #4 as more fully described in Exhibit C hereto, and located on the Site.

**"Regulations"** means temporary and permanent regulations promulgated under the Code.

**"Rental Period"** means each twelve-month period during the Term of this Lease Agreement commencing on August 2 in any year and ending on the next succeeding August 1, except that the first rental period shall commence on September 1, 1992.

**"Site Lease"** means the Site Lease, dated as of August 1, 1992, by and between the Agency and the Town.

**"Trust Agreement"** means the Trust Agreement dated as of August 1, 1992 by and among Trustee, the Agency and the Town relating to the Certificates.

**Section 1.2. Article and Section Headings.** Unless otherwise specified, references to Articles, Sections, and other subdivisions of this Lease Agreement are to be designated Articles, Sections, and other subdivisions of this Lease Agreement as originally executed. The headings or titles of the several articles and sections, and the table of contents appended to copies hereof, shall be solely for convenience of reference and shall not affect the meaning, construction or effect of the provisions hereof.

**Section 1.3. References to Agreement.** The words "hereof", "herein", "hereunder", and words of similar import refer to this Lease Agreement as a whole.

**Section 1.4. Number and Gender.** The singular form of any word used herein, including terms defined as provided in Section 1.1, shall include the plural, and vice versa. The use of a word of any gender shall include all genders.

**Section 1.5. Exhibits.** The following Exhibits are attached to, and by reference made a part of, this Lease Agreement:

Exhibit A: The schedule of Lease Payments for the Project

Exhibit B: The legal description of the Site

Exhibit C: The description of the Project

## ARTICLE II

### REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.1. Representations, Covenants and Warranties of the Town.** The Town represents, covenants and warrants to the Agency as follows:

(a) Due Organization and Existence. The Town is a general law city and political subdivision duly organized and existing under the Constitution and laws of the State.

(b) Authorization. The laws of the State authorize the Town to enter into this Lease Agreement, the Site Lease and the Trust Agreement and to enter into the transactions contemplated by and to carry out its obligations under all of the aforesaid Agreements, and the Town has duly authorized and executed all of the aforesaid Agreements.

(c) No Violations. Neither the execution and delivery of this Lease Agreement, the Site Lease or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Town is now a party or by which the Town is bound or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrances whatsoever upon any of the property or assets of the Town, or upon the Site or the Project, except Permitted Encumbrances.

(d) Fee Ownership of Site. The Town is the fee owner of the Site.

(e) Private Business Use Limitation. The Town shall assure that (i) not in excess of ten percent (10%) of the Proceeds of the Certificates is used for Private Business Use if, in addition, the payment of more than ten percent (10%) of the principal or ten percent (10%) of the interest components of Lease Payments due during the term of this Agreement is, under the terms of this Agreement or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for a Private Business Use or in payments in respect of property used or to be used for a Private Business Use or is to be derived from payments, whether or not to the Town, in respect of property or borrowed money used or to be used for a Private Business Use; and (ii) and that, in the event that both (A) in excess of five percent (5%) of the Proceeds of the Certificates are used for a Private Business Use, and (B) an amount in excess of five percent (5%) of the principal or five percent (5%) of the interest components of Lease Payments due during the term of this Agreement is, under the terms of this Agreement or any underlying arrangement, directly or indirectly, secured by any interest in property used or to be used for said Private Business Use or in payments in respect of property used or to be used for said Private Business Use or is to be derived from payments, whether or not to the Town, in respect of property or borrowed money used or to be used for said Private Business Use, then said excess over said five percent (5%) of Proceeds of the Certificates used for a Private Business Use shall be used for a Private Business Use related to the governmental use of the Project.

(f) Private Loan Use Limitation. The Town shall assure that not in excess of the lesser of five percent (5%) or \$5,000,000 of the Proceeds of the Certificates is used, directly or indirectly, to make or finance a loan (other than loans constituting Nonpurpose Obligations) to persons other than state or local government units.

(g) Federal Guarantee Prohibition. The Town shall not take any action or permit or suffer any action to be taken if the result of the same would be to cause the Lease Payments to be "federally guaranteed" within the meaning of section 149(b) of the Code and Regulations promulgated thereunder.

**Section 2.2. Representations, Covenants and Warranties of Agency.** The Agency represents, covenants and warrants to the Town as follows:

(a) Due Organization and Existence. The Agency is a public body, corporate and politic, duly organized, operating and existing under the laws of the State; has power to enter into this Lease Agreement, the Assignment Agreement and the Trust Agreement; is possessed of full power to lease real and personal property; and has duly authorized the execution and delivery of all of the aforesaid Agreements.

(b) No Encumbrances. The Agency will not pledge the Lease Payments or any other amounts derived from the Project or the Site and from its other rights under this Lease Agreement or the Site Lease, and will not mortgage or encumber the Project or the Site, this Lease Agreement, the Site Lease, the Assignment Agreement or the Trust Agreement.

(c) No Violations. Neither the execution and delivery of the Site Lease, this Lease Agreement, the Assignment Agreement or the Trust Agreement, nor the fulfillment of or compliance with the terms and conditions hereof or thereof, nor the consummation of the transactions contemplated hereby or thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Agency is now a party or by which the Agency is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Agency, or upon the Project or the Site, except Permitted Encumbrances.

(d) No Assignments. Except as provided herein, the Agency will not assign this Lease Agreement, its right to receive Lease Payments from the Town, or its duties and obligations hereunder to any other person, firm or corporation so as to impair or violate the representations, covenants and warranties contained in this Section 2.2.



### ARTICLE III

#### DEPOSIT OF MONEYS; ACQUISITION AND CONSTRUCTION OF PROJECT

**Section 3.1. Deposit of Moneys.** On the Closing Date, the Agency shall cause to be deposited with the Trustee the proceeds of the sale of the Certificates. Pursuant to Section 3.01 of the Trust Agreement, the accrued interest with respect to the Certificates (\$12,275.75), as well as capitalized interest in the amount of \$93,274.16, shall be deposited in the Lease Payment Fund, the Reserve Requirement in the amount of \$254,136.26 shall be deposited in the Reserve Fund, \$75,000.00 shall be deposited in the Costs of Issuance Fund, and the remainder of such proceeds shall be deposited into the Construction Fund.

**Section 3.2. Construction of Project.** The Agency hereby appoints the Town its agent to supervise and provide for, or cause to be supervised and provided for, the construction, improvement and equipping of the Project, and to cause the same to be diligently performed after the Closing Date. The Town, as agent of the Agency, shall cause all Construction Costs to be paid from amounts on deposit in the Construction Fund pursuant to Section 3.02 of the Trust Agreement. The Town hereby covenants to complete the construction, improvement and equipping of the Project on or prior to December 1, 1992. The Town shall require all contractors who perform work on the Project to carry builder's all risk insurance and performance bonds.

Upon completion of construction, improvement and equipping of the Project satisfactory to the Town but in any event not later than sixty (60) days following such completion, the Town shall deliver to the Trustee a certificate of an architect, accompanied by a written approval of the Town Representative, stating that the construction, improvement and equipping of the Project have been completed substantially in conformity with the plans and specifications therefor.

If the Town, for any reason whatsoever, cannot complete the acquisition and construction and take possession of the Project by December 1, 1992, this Lease Agreement shall not be void or voidable; but in that event (subject to the provisions of Section 4.3 hereof) Lease Payments shall be payable during the period between August 1, 1992 and the time when the Town is able to take possession of the Project on a pro rata basis for those portions of the Project for which the Town has use and possession.

## ARTICLE IV

### AGREEMENT TO LEASE; TERM OF LEASE AGREEMENT; LEASE PAYMENTS

**Section 4.1. Agreement to Lease.** The Agency hereby leases the Site and the Project to the Town, and the Town hereby leases the Site and the Project from the Agency, upon the terms and conditions set forth in this Lease Agreement. The Agency shall make the Site and the Project as and when acquired and constructed available to the Town from and after the Closing Date.

**Section 4.2. Term of Lease Agreement.** The Term of this Lease Agreement shall commence on the Closing Date and shall end on August 1, 2012, unless such term is extended as hereinafter provided. If on August 1, 2012, the Trust Agreement shall not be discharged by its terms, then the Term of this Lease Agreement shall be extended until the Trust Agreement shall be discharged by its terms (but in no event beyond August 1, 2022). If prior to August 1, 2012, the Trust Agreement shall be discharged by its terms, the Term of this Lease Agreement shall thereupon end.

**Section 4.3. Lease Payments.** (a) **Obligation to Pay.** Subject to the provisions of Articles VI and X, the Town agrees to pay to the Agency, its successors and assigns, as rental for the use and occupancy of the Project and the Site hereunder during each Rental Period, the Lease Payments (denominated into components of principal and interest) for the Project and the Site in the respective amounts specified in Exhibit A, to be due and payable on the respective Lease Payment Dates specified in Exhibit A.

Any amount held in the Lease Payment Fund on any Lease Payment Date (other than amounts resulting from the prepayment of the Lease Payments in part but not in whole pursuant to Article X and other than amounts required for payment of past due principal or interest represented by any Certificates not presented for payment) shall be credited towards the Lease Payment then due and payable; and no Lease Payment need be made on any Lease Payment Date if the amounts then held in the Lease Payment Fund and available for such purpose are at least equal to the Lease Payment then required to be paid. The Lease Payments for the Project and the Site payable in any Rental Period shall be for the use of the Project and the Site during such Rental Period.

(b) **Effect of Prepayment.** In the event that the Town prepays all remaining Lease Payments, including any premium, if any, in full pursuant to Article X, the Town's obligations under this Lease Agreement, excepting only the obligation, if any, to make any additional payments pursuant to Section 4.6 herein, shall thereupon cease and terminate, including but not limited to the Town's obligation to pay Lease Payments under this Section 4.3; subject however, to the provisions of Section 10.1 in the case of prepayment by application of a security deposit. In the event that the Town purchases the Project pursuant to Section 10.2, the amount paid pursuant to Section 10.2 shall be credited entirely towards the prepayment in full or in part of the Lease Payments. In the event that the Town prepays the Lease Payments in part but not in whole; such prepayment shall be credited entirely towards the prepayment of the Lease Payments so as to prepay the Certificates in conformance with the provisions of Section 4.02 of the Trust Agreement.

(c) **Fair Rental Value.** The Lease Payments for the Project for each Rental Period shall constitute the total rental for the Project during each Rental Period, and shall be paid by the Town in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Project and the Site during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments for the Project and the Site

do not exceed the fair rental value of the Project and the Site. In making such determination, consideration has been given to the cost of the Project, the obligations of the parties under this Lease Agreement, the uses and purposes which may be served by the Project and the benefits therefrom which will accrue to the Town and the general public.

(d) Budget and Appropriation. The Town covenants to take such action as may be necessary to include all Lease Payments due hereunder in each of its budgets during the Term of this Lease Agreement and to make the necessary annual appropriations for all such Lease Payments, except to the extent such Lease Payments are payable from amounts on deposit in the Lease Payment Fund. During the Term of this Lease Agreement, the Town will furnish to the Trustee a certificate that the Lease Payments due in the applicable Fiscal Year have been included in the Town's budget for such Fiscal Year within thirty (30) days after the adoption of each budget, and in any event, not later than October 1 in each year. The covenants on the part of the Town herein contained shall be deemed to be and shall be construed to be duties imposed by law and it shall be the duty of each and every public official of the Town to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Town to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the Town.

(e) Motor Vehicle License Fees. In accordance with the provisions of section 37351.5 of the California Government Code, the Town has elected to guarantee payment hereunder from moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which the Town is entitled under Chapter 5 (commencing with section 11001) of Part 5 of Division 2 of the California Revenue and Taxation Code. The Town has provided notice to the State Controller of such election, which notice includes a schedule of Lease Payments and identifies the Trustee as the trustee selected by the Town for the purposes of such section. In the event that, for any reason, the funds otherwise available to the Town will not be sufficient to make Lease Payments at the time that payment is required, the Town will notify the Trustee which shall, in accordance with Section 5.05 of the Trust Agreement, immediately communicate that information to the affected Owners and to the State Controller.

The Town agrees that it will not elect to guarantee payments under any other agreement from moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which the Town is entitled under Chapter 5 (commencing with section 11001) Part 5 of Division 2 of the California Revenue and Taxation Code unless the moneys credited to the Motor Vehicle License Fee Account in the Transportation Tax Fund to which the Town is entitled for each of the preceding five (5) Fiscal Years shall have amounted to at least 2.5 times the sum of the maximum Lease Payments and the maximum annual debt service coming due and payable with respect to such other agreement in any future Fiscal Year.

(f) Assignment. The Town understands and agrees that all Lease Payments have been assigned by the Agency to the Trustee in trust, pursuant to the Assignment Agreement, for the benefit of the Owners of the Certificates, and the Town hereby assents to such assignment. The Agency hereby directs the Town, and the Town hereby agrees to pay to the Trustee at its Principal Corporate Trust Office, all payments payable by the Town pursuant to this Section 4.3 and all amounts payable by the Town pursuant to Article X.

**Section 4.4. Quiet Enjoyment.** The Agency shall provide the Town with quiet use and enjoyment of the Project and the Site, and the Town shall, for the remainder of the Term of this Lease Agreement, peaceably and quietly have and hold and enjoy the Project and the Site, without suit, trouble or hindrance from the Agency, except as expressly set forth in this Lease Agreement. The Agency will, at the request of the Town and at the Town's cost, join in any legal action in which the Town asserts its right to such possession and enjoyment to the extent the

Agency may lawfully do so. Notwithstanding the foregoing, the Agency shall have the right to inspect the Project and the Site as provided in Section 7.2.

**Section 4.5. Title.** Title to the Project shall be in the Agency, and during the term of this Lease Agreement, the Agency shall hold title to the Project and any and all additions which comprise fixtures, repairs, replacements or modifications to the Project or the Site, including those fixtures, repairs, replacements or modifications which are added to the Project or the Site by the Town at its own expense and which may be removed without damaging the Project and including any items added to the Project or the Site by the Town pursuant to Section 5.9 hereof.

If the Town prepays the Lease Payments in full pursuant to Article X or makes the security deposit permitted by Section 10.1, or pays all Lease Payments during the Term of this Lease Agreement as the same become due and payable, all right, title and interest of the Agency under the Site Lease in and to the Project (determined in accordance with Sections 3.01 or 3.04 thereof) shall be transferred to and vested in the Town. The Agency agrees to take any and all steps and execute and record any and all documents reasonably required by the Town to consummate any such transfer.

**Section 4.6. Additional Payments.** In addition to the Lease Payments, the Town shall pay when due all costs and expenses incurred by the Agency to comply with the provisions of the Trust Agreement, including without limitation all Costs of Issuance (to the extent not paid from amounts on deposit in the Costs of Issuance Fund), compensation, indemnification, and expenses due to the Trustee and all reasonable costs and expenses of attorneys, auditors, engineers and accountants.

## ARTICLE V

### MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

**Section 5.1. Maintenance, Utilities, Taxes and Assessments.** Throughout the Term of this Lease Agreement, as part of the consideration for the rental of the Project and the Site, all improvement, repair and maintenance of the Project and the Site shall be the responsibility of the Town, and the Town shall pay for or otherwise arrange for the payment of all utility services supplied to the Project and the Site, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Project and the Site resulting from ordinary wear and tear or want of care on the part of the Town or any assignee or lessee thereof. In exchange for the Lease Payments herein provided, the Agency agrees to provide only the Project and the Site, as hereinbefore more specifically set forth. The Town waives the benefits of subsections 1 and 2 of Section 1942 of the California Civil Code, and waives the right to make repairs at the expense of the Agency or in lieu thereof, vacate under Section 1942 of the California Civil Code, and all similar rights under the statutes of similar effect, but such waiver shall not limit any of the rights of the Town under the terms of this Lease Agreement.

The Town shall also pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Agency or the Town affecting the Project and the Site or the interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the Town shall be obligated to pay only such installments as are required to be paid during the Term of this Lease Agreement as and when the same become due.

The Town may, at the Town's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Agency shall notify the Town that, in the opinion of Independent Counsel, by nonpayment of any such items, the interest of the Agency in the Project and the Site will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event the Town shall promptly pay such taxes, assessments or charges or provide the Agency and the Trustee with full security against any loss which may result from nonpayment, in form satisfactory to the Agency.

**Section 5.2. Modification of Project.** The Town shall, at its own expense, have the right to remodel the Project and the Site or to make additions, modifications and improvements to the Project and the Site. All additions, modifications and improvements shall thereafter comprise part of the Project and Site and be subject to the provisions of this Lease Agreement. Such additions, modifications and improvements shall not in any way damage the Project or cause it to be used for purposes other than those authorized under the provisions of state and federal law; and the Project and Site, upon completion of any additions, modifications and improvements made thereto pursuant to this Section, shall be of a value which is not substantially less than the value of the Project and Site immediately prior to the making of such additions, modifications and improvements. The Town will not permit any mechanic's or other lien to be established or remain against the Project or the Site for labor or materials furnished in connection with any remodeling, additions, modifications, improvements, repairs, renewals or replacements made by the Town pursuant to this Section; provided that if any such lien is established and the Town shall first notify or cause to be notified the Agency of the Town's intention to do so, the Town may in good faith contest any lien filed or established against the Project or the Site, and in such event may permit the

items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom and shall provide the Agency with full security against any loss or forfeiture which might arise from the nonpayment of any such item, in form satisfactory to the Agency. The Agency will cooperate fully in any such contest, upon the request and at the expense of the Town.

**Section 5.3. Public Liability and Property Damage Insurance.** The Town shall maintain or cause to be maintained, throughout the Term of this Lease Agreement, a standard comprehensive general insurance policy or policies in protection of the Agency, Town, Trustee and their respective members, officers, agents and employees. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Project. Said policy or policies shall provide coverage in the minimum liability limits of \$1,000,000 for personal injury or death of each person and \$3,000,000 for personal injury or deaths of two or more persons in each accident or event, and in a minimum amount of \$150,000. Such public liability and property damage insurance may, however, be in the form of a single limit policy in the amount of \$3,000,000 per occurrence covering all such risks. Such liability insurance may be maintained as part of or in conjunction with any other liability insurance coverage carried by the Town, and may be maintained in whole or in part in the form of self-insurance by the Town; provided, that if the Town self-insures for the risks set forth in this Section, the Town shall provide the Trustee, on an annual basis, with a certificate of an independent insurance consultant or the Town's risk manager that the Town's reserves for such self-insurance program are adequate, or, alternatively, if such reserves are not adequate, a certification from the Town that third party insurance against such risks will be obtained or reserves will be funded at adequate levels. The proceeds of such liability insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which the proceeds of such insurance shall have been paid.

**Section 5.4. Fire and Extended Coverage Insurance.** The Town shall procure and maintain, or cause to be procured and maintained, throughout the remainder of the Term of this Lease Agreement, insurance against loss or damage to any structures constituting any part of a Project by flood, earthquake, fire and lightning, with extended coverage and vandalism and malicious mischief insurance. Said extended coverage insurance shall, as nearly as practicable, cover loss or damage by explosion, windstorm, riot, aircraft, vehicle damage, smoke and such other hazards as are normally covered by such insurance. Such insurance shall be in an amount equal to one hundred percent (100%) of the replacement cost of the Project or Outstanding Certificates of Participation, whichever is greater. Such insurance may be subject to deductible clauses of not to exceed \$300,000 for any one loss. Such insurance may be maintained as part of or in conjunction with any other fire and extended coverage carried by the Town and may be maintained in whole or in part in the form of self-insurance by the Town; provided, that if the Town self-insures for the risks set forth in this Section, the Town shall provide the Trustee, on an annual basis, with a certificate of an independent insurance consultant or the Town's risk manager that the Town's reserves for such self-insurance program are adequate, or, alternatively, if such reserves are not adequate, a certification from the Town that third party insurance against such risks will be obtained or reserves will be funded at adequate levels. The Town hereby assigns to the Agency all right of the Town to collect and receive Net Proceeds under any of said policies, which right has been assigned by the Agency to the Trustee pursuant to the Assignment Agreement. The Net Proceeds of such insurance shall be applied as provided in Section 6.2(a).

**Section 5.5. Rental Interruption Insurance.** The Town shall procure, and maintain through the remainder of the Term of this Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of any structures constituting any part of the Project during the remainder of the Term of this Lease Agreement as a result of any of the hazards covered in the insurance required by Section 5.4 hereof and which causes abatement of the Lease Payments, as specified in Section 6.3, in an amount at least equal to Lease Payments due in

the then applicable Fiscal Year. The Town hereby assigns to the Agency all right of the Town to collect and receive Net Proceeds under any of said policies, which right has been assigned by the Agency to the Trustee pursuant to the Assignment Agreement. The Net Proceeds of such insurance shall be paid to the Trustee and deposited in the Lease Payment Fund and shall be credited towards the payment of the Lease Payments in the order in which such Lease Payments come due and payable.

The Town shall be permitted to self-insure for rental interruption or use and occupancy insurance required above, so long as:

- (1) the Town segregates a designated reserve for such loss; and
- (2) the Town's liability under such self-insurance program is limited to amounts on hand in such segregated reserve; and
- (3) the combined coverage under such self-insurance program and any other rental interruption or use and occupancy insurance are equal to Lease Payments due in the then applicable Fiscal Year; and
- (4) the amount on hand in such segregated reserve will not, in the opinion of Bond Counsel, cause the Lease Agreement to become an "arbitrage bond" within the meaning of Section 148(a) of the Code.

**Section 5.6. Title Insurance.** The Town shall cause to be delivered on the Closing Date a CLTA title insurance policy with respect to the Site and the Project, in a principal amount at least equal to the principal amount of the Lease Agreement, insuring the Town's leasehold interest in the Site and the Project.

**Section 5.7. Insurance Net Proceeds; Form of Policies.** Each policy of insurance required by Sections 5.4, 5.5 and 5.6 hereof shall provide that all proceeds thereunder shall be payable to the Trustee as and to the extent required hereunder. All policies of insurance required by this Lease Agreement and any statements of self-insurance shall be in form satisfactory to the Agency. The Town shall pay or cause to be paid when due the premiums for all insurance policies required by this Lease Agreement. All such policies shall provide that the Trustee shall be given thirty (30) days' notice of each expiration, any intended cancellation thereof or reduction of the coverage provided thereby. The Trustee shall not be responsible for the sufficiency of any insurance herein required and shall be fully protected in accepting payment on account of such insurance or any adjustment, compromise or settlement of any loss agreed to by the Trustee. The Town shall cause to be delivered to the Trustee annually, within 30 days of the end of the Fiscal Year, a certificate stating that the insurance policies required by this Lease Agreement are in full force and effect.

**Section 5.8. Advances.** If the Town shall fail to perform any of its obligations under this Article the Agency may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and the Town shall be obligated to repay all such advances as soon as possible, with interest at the rate of ten percent (10%) per annum from the date of the advance to the date of repayment.

**Section 5.9. Installation of Town's Equipment.** The Town may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Project and the Site. All such items shall remain the sole property of the Town, in which neither the Agency nor the Trustee shall have any interest, and may be modified or removed by the Town at any time provided that the Town shall repair and restore any and all damage to the Project resulting from the installation,

modification or removal of any such items. Nothing in this Lease Agreement shall prevent the Town from purchasing or leasing items to be installed pursuant to this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Project or the Site.

**Section 5.10. Liens.** The Town shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Project or the Site, other than the respective rights of the Agency and the Town as herein provided and Permitted Encumbrances. Except as expressly provided in this Article, the Town shall promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The Town shall reimburse the Agency for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

**Section 5.11. Compliance With Site Lease.** During the term of the Site Lease, the Town will observe and perform all agreements and obligations on its behalf required to be observed and performed thereunder. The Town will not take any action or permit any action within its control to be taken which constitutes or which, if not corrected, with the passage of time or with notice, or both, would constitute or cause to occur any default under the Site Lease.

**Section 5.12. Removal of Property from Lease.** The Town shall have, and is hereby granted the option at any time and from time to time during the Term of this Lease to remove from this Lease any land and all improvements, facilities and property situated thereon; provided that the Town shall satisfy all of the following requirements which are hereby declared to be conditions precedent to such removal:

- (1) No event of default has occurred and is continuing under the Lease;
- (2) The Town shall file with the Agency and the Trustee an amended Exhibit B to this Lease Agreement which deletes the legal description of such land;
- (3) The Town shall cause to be recorded in the Office of the Santa Clara County Recorder a copy of this Lease Agreement containing such amended Exhibit B, or a memorandum of this Lease Agreement reflecting such amendment to Exhibit B; and
- (4) The Town shall cause to be filed with the Trustee an opinion of Bond Counsel substantially to the effect that such removal will not affect the obligation of the Town to continue to pay Lease Payments in the amounts and at the times and in the manner required by the Lease Agreement; and
- (5) The Town shall file with the Agency and the Trustee an appraisal by a qualified appraiser selected by the Town in its sole discretion, stating that the appraised value of the Project, excluding such land and any improvements thereon, at least equals the original aggregate principal amount of the Certificates.
- (6) The Town shall cause notice of such removal to be given to S&P and any other rating agency then rating the Certificates.



## ARTICLE VI

### DAMAGE, DESTRUCTION AND EMINENT DOMAIN; USE OF NET PROCEEDS

**Section 6.1. Eminent Domain.** If the Project and the Site shall be taken permanently under the power of eminent domain or sold to a government threatening to exercise the power of eminent domain, the Term of this Lease Agreement shall cease as of the day possession shall be so taken. If less than all of the Project and Site shall be taken permanently, or if the Project or the Site or any part thereof shall be taken temporarily, under the power of eminent domain, (1) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (2) there shall be a partial abatement of Lease Payments as a result of the application of the Net Proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, in an amount to be agreed upon by the Town and the Agency such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Project and the Site. The Town covenants to contest any eminent domain award which is insufficient to either : (i) redeem the Certificates in whole, if all of the Project and Site are condemned; or (ii) redeem a pro rata share of Certificates, in the event that less than all of the Project and Site are condemned.

**Section 6.2. Application of Net Proceeds.** (a) **From Insurance Award.** The Net Proceeds of any insurance award resulting from any damage to or destruction of any Project by fire or other casualty shall be paid to the Trustee, as assignee of the Agency under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund for application as set forth in Section 6.01 of the Trust Agreement.

(b) **From Eminent Domain Award.** The Net Proceeds of any eminent domain award resulting from any event described in Section 6.1 hereof shall be paid to the Trustee, as assignee of the Agency under the Assignment Agreement, and deposited in the Insurance and Condemnation Fund for application as set forth in Section 6.02 of the Trust Agreement.

**Section 6.3. Abatement of Rental in the Event of Damage or Destruction.** The amount of Lease Payments shall be abated, during any period in which by reason of damage or destruction (other than by eminent domain which is hereinbefore provided for) there is substantial interference with the use and occupancy by the Town of the Project (other than any portions of the Project described in Section 5.2) or the Site or any portion thereof. The amount of such abatement shall be agreed upon by the Town and the Agency such that the resulting Lease Payments represent fair consideration for the use and occupancy of the portions of the Project and the Site not damaged or destroyed. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction. In the event of any such damage or destruction, this Lease Agreement shall continue in full force and effect and the Town waives any right to terminate this Lease Agreement by virtue of any such damage and destruction. However, notwithstanding any other provisions of this Section 6.3, there shall be no abatement of Lease Payments under this Section 6.3 to the extent that the proceeds of an eminent domain or insurance award, including self-insurance as set forth in Section 5.5 of this Lease Agreement, are available to pay Lease Payments or to the extent that moneys are available in the Lease Payment Fund or the Reserve Fund, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

## ARTICLE VII

### DISCLAIMER OF WARRANTIES; ACCESS

**Section 7.1. Disclaimer of Warranties.** The Agency makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for any particular purpose or fitness for the use contemplated by the Town of the Project or the Site, or any other representation or warranty with respect to the Project or the Site. In no event shall the Agency be liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement, the Site Lease or the Trust Agreement for the existence, furnishing, functioning or Town's use of the Project or the Site.

**Section 7.2. Access to the Site and the Project.** The Town agrees that the Agency and any Agency Representative, and the Agency's successors or assigns, shall have the right at all reasonable times to enter upon and to examine and inspect the Project and the Site. The Town further agrees that the Agency, any Agency Representative, and the Agency's successors or assigns shall have such rights of access to the Project and the Site as may be reasonably necessary to cause the proper maintenance of the Project and the Site in the event of failure by the Town to perform its obligations hereunder, provided however that the Trustee, as assignee of the Agency shall not be obligated to cause such proper maintenance.

**Section 7.3. Release and Indemnification Covenants.** The Town shall and hereby agrees to indemnify and save the Agency and its officers, agents, successors and assigns harmless from and against all claims, losses and damages, including legal fees and expenses, arising out of (i) the use, maintenance, condition or management of, or from any work or thing done on the Project or the Site by the Town, (ii) any breach or default on the part of the Town in the performance of any of its obligations under this Lease Agreement, (iii) any act or negligence of the Town or of any of its agents, contractors, servants, employees or licensees with respect to the Project or the Site, or (iv) any act or negligence of any lessee of the Town with respect to the Project. No indemnification is made under this Section or elsewhere in this Lease Agreement for willful misconduct, negligence, or breach of duty under this Lease Agreement by the Agency, its officers, agents, employees, successors or assigns.

**ARTICLE VIII**  
**ASSIGNMENT, LEASING AND AMENDMENT**

**Section 8.1. Assignment by the Agency.** The Agency's rights under this Lease Agreement, including the right to receive and enforce payment of the Lease Payments to be made by the Town under this Lease Agreement have been assigned to the Trustee pursuant to the Assignment Agreement, to which assignment the Town hereby consents.

**Section 8.2. Assignment and leasing by the Town.** This Lease Agreement may not be assigned by the Town. The Town may further lease any of the Project and the Site or any portion thereof, but only with the written consent of the Agency and subject to all of the following conditions:

(i) This Lease Agreement and the obligation of the Town to make Lease Payments hereunder shall remain obligations of the Town; and

(ii) The Town shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to the Agency and the Trustee a true and complete copy of such lease; and

(iii) No such lease by the Town shall cause the Project or the Site to be used for a purpose other than as may be authorized under the provisions of the Constitution and laws of the State; and

(iv) The Town shall furnish the Agency and the Trustee with a written opinion of Bond Counsel, stating that such lease does not cause the interest components of the Lease Payments to become subject to federal or State personal income taxes.

(v) The Trustee shall receive a favorable opinion from counsel to the Town on items (i), (iii) and (iv) above.

**Section 8.3. Amendment of Lease Agreement.** (a) Amendment for Additional Financing. Without the prior written consent of the Trustee, the Town will not alter, modify or cancel, or agree or consent to alter, modify or cancel this Lease Agreement, excepting only such alteration or modification as may be permitted by Section 5.12 hereof or Article IX of the Trust Agreement.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

**Section 9.1. Events of Default Defined.** The following shall be "events of default" under this Lease Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Lease Agreement, with respect to the Project, any one or more of the following events:

(i) Failure by the Town to pay any Lease Payment when due and payable hereunder, or failure to pay any other payment when due and payable hereunder.

(ii) Failure by the Town to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in clause (i) or clause (iii) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to the Town by the Agency, the Trustee or the Owners of not less than five percent (5%) in aggregate principal amount of Certificates then outstanding; provided, however, if the failure stated in the notice can be corrected, but not within the applicable period, the Agency, the Trustee and such Owners shall not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Town within the applicable period and diligently pursued until the default is corrected.

(iii) The filing by the Town of a voluntary petition in bankruptcy under Title 11 of the United States Code or any substitute or successor statute.

**Section 9.2. Remedies on Default.** Whenever any event of default referred to in Section 9.1 hereof shall have happened and be continuing, it shall be lawful for the Agency to exercise any and all remedies available pursuant to law or granted pursuant to this Lease Agreement; provided, however, that notwithstanding anything herein or in the Trust Agreement to the contrary, there shall be no right under any circumstances to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable, each and every covenant hereof to be kept and performed by the Town is expressly made a condition and upon the breach thereof the Agency may exercise any and all rights of entry and re-entry upon the Project and the Site, and also, at its option, with or without such entry, may terminate this Lease Agreement; provided, that no such termination shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. In the event of such default and notwithstanding any re-entry by the Agency, the Town shall, as herein expressly provided, continue to remain liable for the payment of the Lease Payments and/or damages for breach of this Lease Agreement and the performance of all conditions herein contained and, in any event such rent and/or damages shall be payable to the Agency at the time and in the manner as herein provided, to wit:

(a) In the event the Agency does not elect to terminate this Lease Agreement in the manner hereinafter provided for in subparagraph (b) hereof, the Town agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Agency for any deficiency arising out of the re-leasing of the Project and the Site, or, in the event the Agency does not re-lease the Project and the Site, then for the full amount of all Lease Payments to the end of the Term of this Lease Agreement, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Agency or any suit in

unlawful detainer, or otherwise, brought by the Agency for the purpose of effecting such re-entry or obtaining possession of the Project and the Site or the exercise of any other remedy by the Agency. The Town hereby irrevocably appoints the Agency as the agent and attorney-in-fact of the Town to enter upon and re-lease the Project and the Site in the event of default by the Town in the performance of any covenants herein contained to be performed by the Town and to remove all personal property whatsoever situated upon the Project and the Site to place such property in storage or other suitable place in the County of Santa Clara, for the account of and at the expense of the Town, and the Town hereby exempts and agrees to save harmless the Agency from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Project and the Site and the removal and storage of such property by the Agency or its duly authorized agents in accordance with the provisions herein contained. The Town hereby waives any and all claims for damages caused or which may be caused by the Agency in re-entering and taking possession of the Project and the Site as herein provided and all claims for damages that may result from the destruction of or injury to the Site or the Project and all claims for damages to or loss of any property belonging to the Town that may be in or upon the Project and the Site. The Town agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Agency to re-lease the Project and the Site in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Agency in effecting such re-leasing shall constitute a surrender or termination of this Lease Agreement irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such default by the Town the right to terminate this Lease Agreement shall vest in the Agency to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The Town further waives the right to any rental obtained by the Agency in excess of the Lease Payments and hereby conveys and releases such excess to the Agency as compensation to the Agency for its services in re-leasing the Project and the Site.

(b) In the event of the termination of this Lease Agreement by the Agency in the manner hereinafter provided on account of default by the Town (and notwithstanding any re-entry upon the Project or the Site by the Agency in any manner whatsoever or the re-leasing or sale of the Project or the Site), the Town nevertheless agrees to pay to the Agency all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments. Any surplus received by the Agency from such re-leasing shall be the absolute property of the Agency and the Town shall have no right thereto, nor shall the Town be entitled to any credit in the event of a deficiency in the rentals received by the Agency from the Project and/or the Site. Neither notice to pay rent or to deliver up possession of the premises given pursuant to law nor any proceeding in unlawful detainer taken by the Agency shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the Town shall be or become effective by operation of law, or otherwise, unless and until the Agency shall have given written notice to the Town of the election on the part of the Agency to terminate this Lease Agreement. The Town covenants and agrees that no surrender of the Project and/or the Site or of the remainder of the Term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Agency by such written notice.

**Section 9.3. No Remedy Exclusive.** No remedy herein conferred upon or reserved to the Agency is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In

order to entitle the Agency to exercise any remedy reserved to it in this Article it shall not be necessary to give any notice, other than such notice as may be required in this Article or by law.

**Section 9.4. Agreement to Pay Attorneys' Fees and Expenses.** In the event either party to this Lease Agreement should default under any of the provisions hereof and the nondefaulting party should employ attorneys or incur other expenses for the collection of moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys and such other expenses so incurred by the nondefaulting party.

**Section 9.5. No Additional Waiver Implied by One Waiver.** In the event any agreement contained in this Lease Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

**Section 9.6. Application of Proceeds.** All net proceeds received from the re-lease or other disposition of the Project and the Site under this Article IX, and all other amounts derived by the Agency or the Trustee as a result of an event of default hereunder, shall be subject to Section 12.03 of the Trust Agreement and transferred to the Trustee promptly upon receipt thereof after payment of any fees and expenses of the Trustee, including without limitation those of its counsel, and shall be deposited by the Trustee in the Lease Payment Fund to be applied to the Lease Payments in order of payment date.

**Section 9.7. Trustee and Certificate Owners to Exercise Rights.** Such rights and remedies as are given to the Agency under this Article IX have been assigned by the Agency to the Trustee under the Trust Agreement, to which assignment the Town hereby consents. Such rights and remedies shall be exercised by the Trustee and the Owners of the Certificates as provided in the Trust Agreement.

## ARTICLE X

### PREPAYMENT OF LEASE PAYMENTS

**Section 10.1. Security Deposit.** Notwithstanding any other provision of this Lease Agreement, the Town may on any date secure the payment of Lease Payments by a deposit with the Trustee of: (i) an amount of cash which, together with amounts on deposit in the Lease Payment Fund, the Insurance and Condemnation Fund and the Reserve Fund, is sufficient to pay all unpaid Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment Schedule set forth in Exhibit A, or (ii) Defeasance Securities together with cash, if required, in such amount as will, in the opinion of an independent certified public accountant, together with interest to accrue thereon and, if required, all or a portion of moneys or Defeasance Securities then on deposit in the Lease Payment Fund, the Insurance and Condemnation Fund and the Reserve Fund, be fully sufficient to pay all unpaid Lease Payments on their respective Lease Payment dates or on any purchase option date as set forth in Section 10.2, as the Town shall instruct at the time of said deposit. In the event of a security deposit pursuant to this Section, all obligations of the Town under this Lease Agreement, and all security provided by this Lease Agreement for said obligations, shall cease and terminate, excepting only the obligation of the Town to make, or cause to be made, Lease Payments from such security deposit, and the obligation to make any additional payments pursuant to Section 4.6 herein, and title to the Project and the Site shall be affected thereby as described in Section 4.5. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement.

**Section 10.2. Prepayment; Purchase Option.** The Town may exercise its option to prepay the principal component of the Lease Payments, in whole or in part, on any Lease Payment Date on or after August 1, 2002, by paying a prepayment price equal to the aggregate or a portion of the unpaid principal components of the remaining Lease Payments, together with the interest component of the Lease Payment required to be paid on such date, and premium due, if any. Such prepayment price shall be transferred by the Town to the Trustee for deposit in the Lease Payment Fund to be applied to the redemption of Certificates pursuant to Section 4.01(a) of the Trust Agreement. The Town shall give the Trustee notice of its intention to exercise its option not less than sixty (60) days in advance of the date of exercise. In the event the Town prepays the entire unpaid principal component of the Lease Payments in whole, the Town will be deemed to have purchased the Project and title to the Project shall thereupon vest in the Town, free and clear of any encumbrance created by this Agreement.

**Section 10.3. Mandatory Prepayment In Event of Insured Casualty or Eminent Domain.** The Town shall be obligated to prepay the Lease Payments for the Project and the Site, in whole or in part on any date, from and to the extent of any Net Proceeds of insurance award or condemnation award with respect to the Project and the Site theretofore deposited in the Lease Payment Fund for such purpose pursuant to Article VI hereof.

**Section 10.4. Optional Prepayment from Excess Proceeds of Certificates.** The Town shall have the option to prepay the principal component of the Lease Payments, in whole or in part, on any Lease Payment Date occurring after the Completion Date, from excess proceeds of the Certificates remaining in the Construction Fund; however the Town agrees not to exercise such option without the consent of 100% of the Owners of the Outstanding Certificates.

**Section 10.5. Credit for Amounts on Deposit.** In the event of prepayment of the principal components of the Lease Payments in full under this Article X, such that the Trust Agreement shall be discharged by its terms as a result of such prepayment, all amounts then on

deposit in the Lease Payment Fund and the Reserve Fund shall be credited towards the amounts then required to be so prepaid.



**ARTICLE XI**  
**MISCELLANEOUS**

**Section 11.1. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed to have been received 48 hours after deposit in the United States mail in registered or certified form with postage fully prepaid:

|                    |  |
|--------------------|--|
| If to the Town:    | Town of Los Gatos<br>110 E. Main Street<br>Los Gatos, California 95032   |
| If to the Agency:  | Los Gatos Redevelopment Agency<br>110 E. Main Street<br>Los Gatos, California 95032  |
| If to the Trustee: | Bank of America National Trust and Savings<br>Association<br>One Embarcadero Center, 20th Floor<br>San Francisco, California 94111<br>Attention: Corporate Trust Division, N5-145<br>Reference No.: 11-7-39260 |

The Agency and the Town, by notice given hereunder, may designate different addresses to which subsequent notices, certificates or other communications will be sent.

**Section 11.2. Binding Effect.** This Lease Agreement shall inure to the benefit of and shall be binding upon the Agency and the Town and their respective successors and assigns.

**Section 11.3. Severability.** In the event any provision of this Lease Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 11.4. Net-net-net Lease.** This Lease Agreement shall be deemed and construed to be a "net-net-net lease" and the Town hereby agrees that the Lease Payments shall be an absolute net return to the Agency, free and clear of any expenses, charges or set-offs whatsoever.

**Section 11.5. Further Assurances and Corrective Instruments.** The Agency and the Town agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Site or the Project hereby leased or intended so to be or for carrying out the expressed intention of this Lease Agreement.

**Section 11.6. Execution in Counterparts.** This Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 11.7. Applicable Law.** This Lease Agreement shall be governed by and construed in accordance with the laws of the State.

**Section 11.8. Agency and Town Representatives.** Whenever under the provisions of this Lease Agreement the approval of the Agency or the Town is required, or the Agency or the Town is required to take some action at the request of the other, such approval or such request shall be given for the Agency by an Agency Representative and for the Town by a Town Representative, and any party hereto shall be authorized to rely upon any such approval or request.

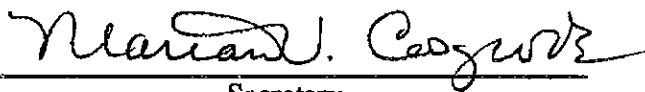
**Section 11.9. Captions.** The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Section of this Lease Agreement.

IN WITNESS WHEREOF, the Agency has caused this Lease Agreement to be executed in its corporate name by its duly authorized officers and sealed with its corporate seal; and the Town has caused this Lease Agreement to be executed in its name by its duly authorized officers and sealed with its corporate seal, as of the date first above written.

LOS GATOS REDEVELOPMENT AGENCY,  
as Lessor

  
Executive Director

Attest:

  
Secretary

TOWN OF LOS GATOS, as Lessee


  
Town Manager

(S E A L)

Attest:

  
Town Clerk

APPROVED AS TO FORM:

  
Town Attorney

STATE OF CALIFORNIA )  
 )  
COUNTY OF SANTA CLARA )

On this 19th day of August, in the year 1992, before me, the undersigned notary public, personally appeared David W. Knapp and Marian Cosgrove, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument as Executive Director and Secretary, respectively, of the Los Gatos Redevelopment Agency and acknowledged to me that the Los Gatos Redevelopment Agency executed it.

WITNESS my hand and official seal.

(Notarial Seal)



Notary Public in and for the State of California

Linda K. Kent-Jansons  
(signature)

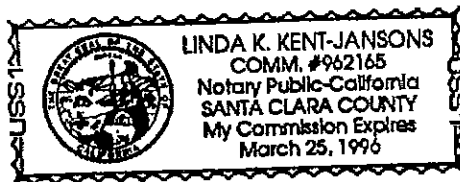
Typed Name: Linda K. Kent-Jansons  
My Commission Expires: March 25, 1996

STATE OF CALIFORNIA )  
COUNTY OF SANTA CLARA )

On this 19th day of August, in the year 1992, before me, the undersigned notary public, personally appeared David W. Knapp and Marian Cosgrove, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons who executed this instrument as Town Manager and Town Clerk, respectively, of the Town of Los Gatos and acknowledged to me that the Town of Los Gatos executed it.

WITNESS my hand and official seal.

(Notarial Seal)



Notary Public in and for the State of California

Linda K. Kent-Jansons  
(signature)

Typed Name: Linda K. Kent-Jansons  
My Commission Expires: March 25, 1996

**\$2,960,000**  
**TOWN OF LOS GATOS**  
**(Parking Lot # 4 Project)**  
**CERTIFICATES OF PARTICIPATION**

**Lease Payment Schedule**  
(Page 1 of 6)

| <b>Date</b> | <b>Debt Service</b> | <b>Fiscal Total</b> | <b>Annual Total</b> |
|-------------|---------------------|---------------------|---------------------|
| 09/01/92    | \$21,178.02         |                     |                     |
| 10/01/92    | 21,178.02           |                     |                     |
| 11/01/92    | 21,178.02           |                     |                     |
| 12/01/92    | 21,178.02           |                     | \$84,712.09         |
| 01/01/93    | 21,178.02           |                     |                     |
| 02/01/93    | 21,178.02           |                     |                     |
| 03/01/93    | 21,178.02           |                     |                     |
| 04/01/93    | 21,178.02           |                     |                     |
| 05/01/93    | 21,178.02           |                     |                     |
| 06/01/93    | 21,178.02           |                     |                     |
| 07/01/93    | 21,178.02           |                     |                     |
| 08/01/93    | 21,178.02           | \$254,136.26        |                     |
| 09/01/93    | 21,069.69           |                     |                     |
| 10/01/93    | 21,069.69           |                     |                     |
| 11/01/93    | 21,069.69           |                     |                     |
| 12/01/93    | 21,069.69           |                     | 253,702.93          |
| 01/01/94    | 21,069.69           |                     |                     |
| 02/01/94    | 21,069.69           |                     |                     |
| 03/01/94    | 21,069.69           |                     |                     |
| 04/01/94    | 21,069.69           |                     |                     |
| 05/01/94    | 21,069.69           |                     |                     |
| 06/01/94    | 21,069.69           |                     |                     |
| 07/01/94    | 21,069.69           |                     |                     |
| 08/01/94    | 21,069.69           | 252,836.28          |                     |
| 09/01/94    | 20,923.86           |                     |                     |
| 10/01/94    | 20,923.86           |                     |                     |
| 11/01/94    | 20,923.86           |                     |                     |
| 12/01/94    | 20,923.86           |                     | 252,252.96          |
| 01/01/95    | 20,923.86           |                     |                     |
| 02/01/95    | 20,923.86           |                     |                     |
| 03/01/95    | 20,923.86           |                     |                     |
| 04/01/95    | 20,923.86           |                     |                     |
| 05/01/95    | 20,923.86           |                     |                     |
| 06/01/95    | 20,923.86           |                     |                     |
| 07/01/95    | 20,923.86           |                     |                     |

**EXHIBIT A**

# Lease Payment Schedule

(Page 2 of 6)

| Date     | Debt Service | Fiscal Total | Annual Total |
|----------|--------------|--------------|--------------|
| 08/01/95 | \$20,923.86  | \$251,086.32 |              |
| 09/01/95 | 21,157.19    |              |              |
| 10/01/95 | 21,157.19    |              |              |
| 11/01/95 | 21,157.19    |              |              |
| 12/01/95 | 21,157.19    |              | \$252,019.64 |
| 01/01/96 | 21,157.19    |              |              |
| 02/01/96 | 21,157.19    |              |              |
| 03/01/96 | 21,157.19    |              |              |
| 04/01/96 | 21,157.19    |              |              |
| 05/01/96 | 21,157.19    |              |              |
| 06/01/96 | 21,157.19    |              |              |
| 07/01/96 | 21,157.19    |              |              |
| 08/01/96 | 21,157.19    | 253,886.28   |              |
| 09/01/96 | 20,898.86    |              |              |
| 10/01/96 | 20,898.86    |              |              |
| 11/01/96 | 20,898.86    |              |              |
| 12/01/96 | 20,898.86    |              | 252,852.96   |
| 01/01/97 | 20,898.86    |              |              |
| 02/01/97 | 20,898.86    |              |              |
| 03/01/97 | 20,898.86    |              |              |
| 04/01/97 | 20,898.86    |              |              |
| 05/01/97 | 20,898.86    |              |              |
| 06/01/97 | 20,898.86    |              |              |
| 07/01/97 | 20,898.86    |              |              |
| 08/01/97 | 20,898.86    | 250,786.32   |              |
| 09/01/97 | 21,019.69    |              |              |
| 10/01/97 | 21,019.69    |              |              |
| 11/01/97 | 21,019.69    |              |              |
| 12/01/97 | 21,019.69    |              | 251,269.64   |
| 01/01/98 | 21,019.69    |              |              |
| 02/01/98 | 21,019.69    |              |              |
| 03/01/98 | 21,019.69    |              |              |
| 04/01/98 | 21,019.69    |              |              |
| 05/01/98 | 21,019.69    |              |              |
| 06/01/98 | 21,019.69    |              |              |
| 07/01/98 | 21,019.69    |              |              |
| 08/01/98 | 21,019.69    | 252,236.28   |              |
| 09/01/98 | 21,065.53    |              |              |
| 10/01/98 | 21,065.53    |              |              |
| 11/01/98 | 21,065.53    |              |              |
| 12/01/98 | 21,065.53    |              | 252,419.64   |
| 01/01/99 | 21,065.53    |              |              |
| 02/01/99 | 21,065.53    |              |              |
| 03/01/99 | 21,065.53    |              |              |
| 04/01/99 | 21,065.53    |              |              |
| 05/01/99 | 21,065.53    |              |              |

# EXHIBIT A

# Lease Payment Schedule

(Page 3 of 6)

| Date     | Debt Service | Fiscal Total | Annual Total |
|----------|--------------|--------------|--------------|
| 06/01/99 | \$21,065.53  |              |              |
| 07/01/99 | 21,065.53    |              |              |
| 08/01/99 | 21,065.53    | \$252,786.36 |              |
| 09/01/99 | 21,036.36    |              |              |
| 10/01/99 | 21,036.36    |              |              |
| 11/01/99 | 21,036.36    |              |              |
| 12/01/99 | 21,036.36    |              | \$252,669.68 |
| 01/01/00 | 21,036.36    |              |              |
| 02/01/00 | 21,036.36    |              |              |
| 03/01/00 | 21,036.36    |              |              |
| 04/01/00 | 21,036.36    |              |              |
| 05/01/00 | 21,036.36    |              |              |
| 06/01/00 | 21,036.36    |              |              |
| 07/01/00 | 21,036.36    |              |              |
| 08/01/00 | 21,036.36    | 252,436.32   |              |
| 09/01/00 | 20,932.19    |              |              |
| 10/01/00 | 20,932.19    |              |              |
| 11/01/00 | 20,932.19    |              |              |
| 12/01/00 | 20,932.19    |              | 252,019.64   |
| 01/01/01 | 20,932.19    |              |              |
| 02/01/01 | 20,932.19    |              |              |
| 03/01/01 | 20,932.19    |              |              |
| 04/01/01 | 20,932.19    |              |              |
| 05/01/01 | 20,932.19    |              |              |
| 06/01/01 | 20,932.19    |              |              |
| 07/01/01 | 20,932.19    |              |              |
| 08/01/01 | 20,932.19    | 251,186.28   |              |
| 09/01/01 | 21,048.34    |              |              |
| 10/01/01 | 21,048.34    |              |              |
| 11/01/01 | 21,048.34    |              |              |
| 12/01/01 | 21,048.34    |              | 251,650.88   |
| 01/01/02 | 21,048.34    |              |              |
| 02/01/02 | 21,048.34    |              |              |
| 03/01/02 | 21,048.34    |              |              |
| 04/01/02 | 21,048.34    |              |              |
| 05/01/02 | 21,048.34    |              |              |
| 06/01/02 | 21,048.34    |              |              |
| 07/01/02 | 21,048.34    |              |              |
| 08/01/02 | 21,048.34    | 252,580.08   |              |
| 09/01/02 | 20,824.59    |              |              |
| 10/01/02 | 20,824.59    |              |              |
| 11/01/02 | 20,824.59    |              |              |
| 12/01/02 | 20,824.59    |              | 251,685.08   |
| 01/01/03 | 20,824.59    |              |              |
| 02/01/03 | 20,824.59    |              |              |
| 03/01/03 | 20,824.59    |              |              |

## EXHIBIT A



# Lease Payment Schedule

(Page 4 of 6)

| Date     | Debt Service | Fiscal Total | Annual Total |
|----------|--------------|--------------|--------------|
| 04/01/03 | \$20,824.59  |              |              |
| 05/01/03 | 20,824.59    |              |              |
| 06/01/03 | 20,824.59    |              |              |
| 07/01/03 | 20,824.59    |              |              |
| 08/01/03 | 20,824.59    | \$249,895.08 |              |
| 09/01/03 | 20,982.92    |              |              |
| 10/01/03 | 20,982.92    |              |              |
| 11/01/03 | 20,982.92    |              |              |
| 12/01/03 | 20,982.92    |              | \$250,528.40 |
| 01/01/04 | 20,982.92    |              |              |
| 02/01/04 | 20,982.92    |              |              |
| 03/01/04 | 20,982.92    |              |              |
| 04/01/04 | 20,982.92    |              |              |
| 05/01/04 | 20,982.92    |              |              |
| 06/01/04 | 20,982.92    |              |              |
| 07/01/04 | 20,982.92    |              |              |
| 08/01/04 | 20,982.92    | 251,795.04   |              |
| 09/01/04 | 21,082.92    |              |              |
| 10/01/04 | 21,082.92    |              |              |
| 11/01/04 | 21,082.92    |              |              |
| 12/01/04 | 21,082.92    |              | 252,195.04   |
| 01/01/05 | 21,082.92    |              |              |
| 02/01/05 | 21,082.92    |              |              |
| 03/01/05 | 21,082.92    |              |              |
| 04/01/05 | 21,082.92    |              |              |
| 05/01/05 | 21,082.92    |              |              |
| 06/01/05 | 21,082.92    |              |              |
| 07/01/05 | 21,082.92    |              |              |
| 08/01/05 | 21,082.92    | 252,995.04   |              |
| 09/01/05 | 20,706.25    |              |              |
| 10/01/05 | 20,706.25    |              |              |
| 11/01/05 | 20,706.25    |              |              |
| 12/01/05 | 20,706.25    |              | 251,488.36   |
| 01/01/06 | 20,706.25    |              |              |
| 02/01/06 | 20,706.25    |              |              |
| 03/01/06 | 20,706.25    |              |              |
| 04/01/06 | 20,706.25    |              |              |
| 05/01/06 | 20,706.25    |              |              |
| 06/01/06 | 20,706.25    |              |              |
| 07/01/06 | 20,706.25    |              |              |
| 08/01/06 | 20,706.25    | 248,475.00   |              |
| 09/01/06 | 20,708.34    |              |              |
| 10/01/06 | 20,708.34    |              |              |
| 11/01/06 | 20,708.34    |              |              |
| 12/01/06 | 20,708.34    |              | 248,483.36   |
| 01/01/07 | 20,708.34    |              |              |

# EXHIBIT A

**Lease Payment Schedule**  
(Page 5 of 6)

| <b>Date</b> | <b>Debt<br/>Service</b> | <b>Fiscal<br/>Total</b> | <b>Annual<br/>Total</b> |
|-------------|-------------------------|-------------------------|-------------------------|
| 02/01/07    | \$20,708.34             |                         |                         |
| 03/01/07    | 20,708.34               |                         |                         |
| 04/01/07    | 20,708.34               |                         |                         |
| 05/01/07    | 20,708.34               |                         |                         |
| 06/01/07    | 20,708.34               |                         |                         |
| 07/01/07    | 20,708.34               |                         |                         |
| 08/01/07    | 20,708.34               | \$248,500.08            |                         |
| 09/01/07    | 20,770.84               |                         |                         |
| 10/01/07    | 20,770.84               |                         |                         |
| 11/01/07    | 20,770.84               |                         |                         |
| 12/01/07    | 20,770.84               |                         | \$248,750.08            |
| 01/01/08    | 20,770.84               |                         |                         |
| 02/01/08    | 20,770.84               |                         |                         |
| 03/01/08    | 20,770.84               |                         |                         |
| 04/01/08    | 20,770.84               |                         |                         |
| 05/01/08    | 20,770.84               |                         |                         |
| 06/01/08    | 20,770.84               |                         |                         |
| 07/01/08    | 20,770.84               |                         |                         |
| 08/01/08    | 20,770.84               | 249,250.08              |                         |
| 09/01/08    | 20,791.67               |                         |                         |
| 10/01/08    | 20,791.67               |                         |                         |
| 11/01/08    | 20,791.67               |                         |                         |
| 12/01/08    | 20,791.67               |                         | 249,333.40              |
| 01/01/09    | 20,791.67               |                         |                         |
| 02/01/09    | 20,791.67               |                         |                         |
| 03/01/09    | 20,791.67               |                         |                         |
| 04/01/09    | 20,791.67               |                         |                         |
| 05/01/09    | 20,791.67               |                         |                         |
| 06/01/09    | 20,791.67               |                         |                         |
| 07/01/09    | 20,791.67               |                         |                         |
| 08/01/09    | 20,791.67               | 249,500.04              |                         |
| 09/01/09    | 20,770.84               |                         |                         |
| 10/01/09    | 20,770.84               |                         |                         |
| 11/01/09    | 20,770.84               |                         |                         |
| 12/01/09    | 20,770.84               |                         | 249,416.72              |
| 01/01/10    | 20,770.84               |                         |                         |
| 02/01/10    | 20,770.84               |                         |                         |
| 03/01/10    | 20,770.84               |                         |                         |
| 04/01/10    | 20,770.84               |                         |                         |
| 05/01/10    | 20,770.84               |                         |                         |
| 06/01/10    | 20,770.84               |                         |                         |
| 07/01/10    | 20,770.84               |                         |                         |
| 08/01/10    | 20,770.84               | 249,250.08              |                         |
| 09/01/10    | 21,125.00               |                         |                         |
| 10/01/10    | 21,125.00               |                         |                         |
| 11/01/10    | 21,125.00               |                         |                         |

**EXHIBIT A**

# Lease Payment Schedule

(Page 6 of 6)

| Date     | Debt Service   | Fiscal Total   | Annual Total   |
|----------|----------------|----------------|----------------|
| 12/01/10 | \$21,125.00    |                | \$250,666.72   |
| 01/01/11 | 21,125.00      |                |                |
| 02/01/11 | 21,125.00      |                |                |
| 03/01/11 | 21,125.00      |                |                |
| 04/01/11 | 21,125.00      |                |                |
| 05/01/11 | 21,125.00      |                |                |
| 06/01/11 | 21,125.00      |                |                |
| 07/01/11 | 21,125.00      |                |                |
| 08/01/11 | 21,125.00      | \$253,500.00   |                |
| 09/01/11 | 21,000.00      |                |                |
| 10/01/11 | 21,000.00      |                |                |
| 11/01/11 | 21,000.00      |                |                |
| 12/01/11 | 21,000.00      |                | 253,000.00     |
| 01/01/12 | 21,000.00      |                |                |
| 02/01/12 | 21,000.00      |                |                |
| 03/01/12 | 21,000.00      |                |                |
| 04/01/12 | 21,000.00      |                |                |
| 05/01/12 | 21,000.00      |                |                |
| 06/01/12 | 21,000.00      |                |                |
| 07/01/12 | 21,000.00      |                |                |
| 08/01/12 | 21,000.00      | 252,000.00     | 168,000.000    |
|          | \$5,029,117.22 | \$5,029,117.22 | \$5,029,117.22 |

EXHIBIT A

All that certain Real Property in the Town of Los Gatos, County of Santa Clara, State of California, described as follows:

PARCEL ONE:

A strip of land 80 feet wide situate, lying and being in the Town of Los Gatos, County of Santa Clara, State of California, being a portion of land described in deed Dated October 10, 1877, from J. F. Mason to South Pacific Coast Railroad Company, Recorded October 11, 1877, in Liber 46 of Deeds at Page 66, Records of Santa Clara County, lying 50 feet Southeasterly and 30 feet Northwesterly of the following described line:

Commencing at a point of intersection of the Southwesterly line of land described in deed dated May 20, 1960, from Southern Pacific Company to State of California, Recorded August 8, 1960, in Book 4879 of Official Records, Page 712, Records of Santa Clara County with the line specifically described in said deed dated October 10, 1877; thence South 21 deg. 35' 12" West along last said line, 1325.50 feet to a point in the center line of Grays Lane (35 feet wide) as said Lane is shown on Map of J. E. Miles & L. H. Edelen's Subdivision of Vineyard Lots and the actual point of beginning of the line to be described; thence Southwesterly continuing along last said line described in said deed dated October 10, 1877, 210 feet.

The side lines of the above-described 80-foot wide strip of land terminate in said center line of Grays Lane and in a line drawn radially to the above-described line and passing through the Southerly terminus thereof.

PARCEL TWO:

A strip of land of varying width situate, lying and being in the Town of Los Gatos, County of Santa Clara, State of California, being a portion of land described in deed Dated October 10, 1877, from J. F. Masonto South Pacific Coast Railroad Company, Recorded October 11, 1877, in Liber 46 of Deeds at page 66, Records of Santa Clara County and a portion of land described in deed dated October 4, 1877, from J. W. Lyndon to South Pacific Coast Railroad Company, recorded October 11, 1877, in Liber 46 of Deeds, Page 68 et seq., Records of Santa Clara County, lying on each side of the following described line:

Commencing at the point of intersection of the center line of Grays Lane (35 feet wide), as said Lane is shown on Map of J. C. Miles & L. H. Edelen's Subdivision of Vineyard Lots, with the line specifically described in said deed dated October 10, 1877; thence Southwesterly along last said line 210 feet to the actual point of beginning of the line to be described; thence continuing Southwesterly along last said line described in said deed dated October 10, 1877, embracing a strip of land 80 feet wide, lying 50 feet Southeasterly and 30 feet Northwesterly of said line, 100 feet to the Southerly terminus of said line described in said deed dated October 10, 1877; thence continuing Southwesterly along the line specifically described in said deed dated October 4, 1877, embracing a strip of land 60 feet wide, lying 30 feet equally on each side of said line, 150 feet to a point in the center line of Elm Street, 30 feet wide, as said street is shown on Map of Lyndon's Subdivision of the Teresa Block, which Map is on file in Book F2 of Maps, at Page 39, Santa Clara County Records.

## EXHIBIT B

PARCEL THREE:

A Parcel of land bounded by a line commencing at a point in the South Line of the original Mason Tract where the West Line of the lands of the South Pacific Coast Railroad Company, intersects the same, and running thence Southerly along said line of said South Pacific Coast Railroad Company's land 146 feet; thence Westerly along the North side of a Lane, 43 feet; thence Northerly and parallel with said First Line, 146 feet to the said South Line of Mason Tract; thence Easterly along said South line of the Mason Tract 43 feet to the place of beginning, and being a portion of the Rancho Rinconada De Los Gatos.

PARCEL FOUR:

Beginning at the point of intersection of the Northeasterly line of Lot C, as said Lot is shown on that certain Map entitled, "Map of Lyndon's Subdivision of the Teresa Block", Recorded January 10, 1906 in Book F-2 of Maps, Page 39, with the Southeasterly line of that certain 22 foot easement for alley purposes as granted to the Town of Los Gatos, by deed Recorded May 7, 1941 in Book 1032 Official Records, Page 506, and running thence along said Northeasterly line of said Lot C and the Southeasterly prolongation thereof, South 60 deg. 39' East 58.57 feet more or less, to the Northwesternly line of the right of way of the South Pacific Coast Railroad Company; thence Northeasterly and along the Northwesternly line of the right of way of the South Pacific Coast Railroad Company 75 feet to the divided line between the lands now or formerly of Lewis Fetsch, et al, and Susie M. Kyle, et al, as said line was established by boundary line agreement executed by and between Lewis Fetsch, et al, as first parties and Susie M. Kyle, et al, as second parties, Recorded October 10, 1924 in Book 112 of Official Records, Page 43; thence along said last named dividing line North 60 deg. 39' West 62.77 feet, more or less to the point of intersection thereof, with the said Southeasterly line of the above mentioned easement granted to the Town of Los Gatos; thence along said Southeasterly line of said easement, South 25 deg. 57' West 73.06 feet to the point of beginning.

PARCEL FIVE:

Beginning at a point in the Southwesterly line of that certain tract described in the Deed to Jesse S. O'Neill, et al, recorded April 27, 1938 in Book 870 Official Records, Page 424, Santa Clara County Records, at the Southernmost corner of the Parcel of land of Los Gatos, Recorded May 7, 1941 in Book 1036 Official Records, Page 429, Santa Clara County Records; thence North 25 deg. 57' East along the Southeasterly line of land so conveyed to the Town of Los Gatos, 51.53 feet to the Southwesterly line of land described in the Deed to Louis H. Lawson, et ux, Recorded December 16, 1921 in Book 544 of Deeds, Page 276, Santa Clara County Records; thence along the Southwesterly line of land so conveyed to Louis H. Lawson, et ux, South 60 deg. 39' East 55.07 feet to the Northwesternly line of the right of way of the South Pacific Coast Railroad Company; thence Southwesterly along the Northwesternly line of the right of way of the South Pacific Coast Railroad Company, 52 feet to the Southwesterly line of that certain tract of land, described in the Deed to Jesse S. O'Neil first above referred to; thence along said line North 60 deg. 39' West 61.24 feet, more or less, to the point of beginning.

EXHIBIT B

PARCEL SIX:

Beginning at a point on the Northeastern line of that certain parcel of land described in the Deed to Harry F. Boone, et ux, Recorded April 3, 1941 in Book 1029 Official Records, Page 415, Santa Clara County Records, where it is intersected by the Southeastern line of that certain 22 foot alley described in the Deed to the Town of Los Gatos, a municipal corporation, Recorded May 7, 1941 in Book 1036 Official Records Page 438, Santa Clara County Records; running thence along the Southeastern line of said Alley South 25 deg. 57' West 34.68 feet to the Southwestern line of the tract of land described in the deed to Harry F. Boone, et ux, above referred to; thence Southeasterly along the Southwestern line of the lands described in said deed to Boone, 55.07 feet, more or less, to the Northwestern line of the right of way of the South Pacific Coast Railroad Company, 35.20 feet to the Easternmost corner of the land described in the deed to Boone, above referred to; thence Northwesterly along the Northeastern line of the land described in said Deed to Boone, 51 feet, more or less, to the point of beginning.

PARCEL SEVEN:

Real property situate in the Town of Los Gatos, County of Santa Clara, State of California, and described in Book F547 of Official Records of Santa Clara County at Page 638, more particularly described in said deed as follows:

Beginning at a point in the Southwesterly line of Grays Lane, where the same is intersected by the Southeasterly line of an alley, 22 feet wide, as said alley is described in the Deed from Frank G. Greco, et ux, to the Town of Los Gatos, by Deed Dated April 19, 1941 and Recorded May 10, 1941 in Vol. 1034 of Official Records; thence along said line of Grays Lane, S. 64 deg. 51' E., 50 feet to a stake standing on the Westerly line of the right of way of the Southern Pacific Railroad; thence along said Westerly line, S. 22 deg. 25' W., 65 feet; thence leaving said line of said right of way and running parallel with said line of Grays Lane, N. 64 deg. 51' W., 55 feet, more or less, to the Southeasterly line of said alley; thence along said line, N. 24 deg. 57' E., 65 feet, more or less, to the point of beginning, being a portion of the Rancho Rinconada De Los Gatos, Situated in the Town of Los Gatos.

PARCEL EIGHT:

Beginning at the Southeasterly corner of that certain Parcel of Land as described in the Deed filed May 10, 1941 in Book 1034 of Official Records of Santa Clara County at Pages 536 and 537; thence along the Easterly line of said parcel North 24 deg. 57' East 68.25 feet, more or less, to the Southerly line of a parcel of land conveyed by Charles Donald Hebard and Grace M. Hebard, husband and wife, to Gerald B. Boyle and Emogene Boyle, husband and wife, and described in the deed Recorded September 2, 1980 in Book F547 of Official Records of Santa Clara County at Page 638; thence along the Southerly line of said lands of Boyle South 64 deg. 51' East 55 feet, more or less, to the Westerly line of the right of way of the Southern Pacific Railroad; thence along the Westerly line of right of way South 22 deg. 25' West 72.39 feet, more or less, to the Northerly line of a parcel of land conveyed by John Peter Curren et ux, to Louis H. Lawson and described in the Deed Dated December 9, 1921 in Volume 544 of Deeds at Page 276, Records of Santa Clara County; thence along said Northerly line North 60 deg. 39' West 58.47 feet, more or less, to the Point of Beginning.

PARCEL NINE:

Being all that real property vacated to the Town of Los Gatos, by that certain order vacating an Alley Called Boone Lane, Resolution 1989-61, as filed for Record May 2, 1989 in Book K935 Official Records at Page 827 and Re-Recorded July 26, 1989 in Book L33 Official Records, at Page 43.

PARCEL TEN:

Beginning at the most Northerly corner of the lands of Vadas as said lands are described in the deed Recorded June 15, 1981 in Book G149 of Official Records at Pages 503-505 in the Office of the County Recorder of Santa Clara County, California; said point being also in the Easterly right of way of the Southern Pacific Railroad and running thence in a Southerly direction along said Easterly right of way through a non-tangent curve to the right with a radius of 1463.00 feet through a central angle of 1 deg. 42' 49" a distance of 43.76 feet to the Southwesterly corner of the hereinabove said lands of Vadas; thence along the Southerly line of the lands of Vadas South 61 deg. 52' 32" East 10.02 feet; thence along a non-tangent curve to the left with a radius of 1473.00 feet through a central angle of 1 deg. 41' 35" a distance of 43.35 feet to the Northerly line of said lands of Vadas; thence North 60 deg. 34' 20" West 10.00 feet to the point of beginning.

PARCEL ELEVEN:

An Easement for public sidewalk and landscaping purposes over the following described property:

Commencing at the most Northerly corner of the lands of Vadas as said lands are described in the deed recorded June 15, 1989 in Book G149 of Official Records at Pages 503-505 in the Office of the County Recorder of Santa Clara County, California; said point being also in the Easterly right of way of the Southern Pacific Railroad; thence South 60 deg. 34' 20" East 10.00 feet to the Point of Beginning; thence in a Southerly direction through a non-tangent curve to the right with a radius of 1473.00 feet through a central angle of 1 deg. 41' 35" a distance of 43.53 feet; thence along the Southerly line of the lands of Vadas South 61 deg. 52' 32" East 10.01 feet; thence along a non-tangent curve to the left with a radius of 1483.00 feet through a central angle of 1 deg. 40' 22" a distance of 43.40 feet to the Northerly line of said lands of Vadas; thence North 60 deg. 34' 20" West 10.00 feet to the Point of Beginning.

PARCEL TWELVE:

Beginning at the point of intersection of the Easterly right of way line of the Southern Pacific Railroad and the Northerly line of Elder Street (also known as Elm Street), a Street 40.00 feet in width; thence along said Southern Pacific Railroad right-of-way North 33 deg. 13' 26" East 50.14 feet to the beginning of a non-tangent curve to the left having a radius of 1463.00 feet; thence along the arc of said curve to the left through a central angle of 1 deg. 46' 07" a distance of 45.17 feet to the Southerly line of the lands of Vadas as said lands are described in the Deed Recorded

**EXHIBIT B**

June 15, 1981 in Book G149 of Official Records of Santa Clara County at Pages 503-505; thence along said Southerly line South 61 deg. 52' 32" East 6.77 feet; thence South 26 deg. 37' 34" West 35.69 feet; thence South 29 deg. 01' 20" West 59.32 feet to the hereinabove said Northerly line of Elder Street; thence along the Northerly line of Elder Street North 61 deg. 52' 32" West 14.55 feet to the point of beginning.

**PARCEL THIRTEEN:**

An easement for public sidewalk, slope and landscaping purposes over the following described parcel:

Beginning at the point of intersection of the Easterly right-of-way line of the Southern Pacific Railroad and the Northerly line of Elder Street, a Street 40.00 feet in width; thence running along said Northerly line of Elder Street South 61 deg. 52' 32" East 14.55 feet to the True Point of Beginning; thence North 29 deg. 01' 20" East 59.32 feet; thence North 26 deg. 37' 34" East 35.69 feet to a point on the Southerly line of the lands of Vadas as said lands are described in the Deed Recorded June 15, 1981 in Book G149 of Official Records of Santa Clara County at Pages 503-505; thence along said Southerly line South 61 deg. 52' 32" East 10.49 feet; thence South 29 deg. 01' 20" West 95.01 feet to the hereinabove said Northerly line of Elder Street; thence along the Northerly line of Elder Street North 61 deg. 52' 32" West 9.00 feet to the True Point of Beginning.



## **EXHIBIT C**

### **DESCRIPTION OF PROJECT**

*The Project consists of a parking facility comprised of 316 parking spaces and two levels (top level at grade) located on approximately 4 acres of land located in the block bounded by University and Santa Cruz Avenues and Grays Lane and Elm Street in the Town.*

## CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the Lease Agreement, dated as of August 1, 1992, from the Los Gatos Redevelopment Agency, as lessor, to the Town of Los Gatos (the "Town"), a municipal corporation organized and existing under the laws of the State of California, as lessee, is hereby accepted by the undersigned officer on behalf of the Town pursuant to authority conferred by resolution of the governing board of the Town adopted on July 20, 1992, and the lessee consents to recordation thereof by its duly authorized officer.

Dated: August 1, 1992

TOWN OF LOS GATOS

By David W. Knapp  
David W. Knapp  
Town Manager

APPENDIX C  
US BANK STATEMENTS



00-0-M-L-PC-336-01 00392201 3922  
0098341-00-01717-01 Page 3 of 6

ACCOUNT NUMBER: [REDACTED]  
TOWN OF LOS GATOS CALIFORNIA  
CERTIFICATES OF PARTICIPATION  
(PARKING LOT #4 PROJECT) 1992  
LEASE PAYMENT FUND

This statement is for the period from  
November 1, 2012 to November 30, 2012

### MARKET VALUE SUMMARY

|                        | Current Period<br>11/01/12 to 11/30/12 |
|------------------------|--|
| Beginning Market Value | \$21,000.00                            |
| Contributions          | 233,136.28                             |
| Distributions          | - 254,136.29                           |
| Adjusted Market Value  | \$0.00                                 |
| Ending Market Value    | \$0.00                                 |



00-A-M -L-PC -001-01 00429301 4293  
0098342-00-01717-01 Page 5 of 5

ACCOUNT NUMBER: 00000000  
TOWN OF LOS GATOS, CALIFORNIA  
CERTIFICATES OF PARTICIPATION  
(PARKING LOT #4 PROJECT) 1992  
RESERVE FUND

This statement is for the period from  
December 1, 2012 to December 31, 2012

### CASH SUMMARY

|   | Income<br>Cash | Principal<br>Cash | Total<br>Cash |
|---|----------------|-------------------|---------------|
| Beginning Cash Balance as of 12/01/2012 | \$0.00         | \$0.00            | \$0.00        |
| Ending Cash Balance as of 12/31/2012    | \$0.00         | \$0.00            | \$0.00        |

### CASH SUMMARY MESSAGES

No activity qualifies for this statement period.